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STRENGTHENING THE MARYLAND LEGISLATURE

AN EAGLETON STUDY AND REPORT

by

ALAN ROSENTHAL

CENTER FOR STATE LEGISLATIVE RESEARCH AND SERVICE
EAGLETON INSTITUTE OF POLITICS
RUTGERS—THE STATE UNIVERSITY
New Brunswick, New Jersey

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PREFACE

A year has gone into this study and these proposals to strengthen the Maryland General Assembly. Many of our recommendations are designed to effect major change in the manner in which the legislature participates in policy-making and reviews executive performance. Yet, we have not drawn a blueprint for the perfect legislature, if any such thing exists or is attainable. Nor have we attempted to hocus-pocus a legislature of our very own, to create the consultant's dream and the practitioner's nightmare. Our aim is to assist a specific legislature in overcoming particular problems. Therefore, we have tried to offer proposals that are effective and workable--not in California, New York, or New Jersey, but in Maryland.

No wave of a magic wand will strengthen a state legislature. Nor will exhortation, diagnosis, and prescription. Our job devising recommendations is simple compared to the General Assembly's job adopting them and making them work. This is as it should be. For it is the responsibility of legislators, more than of anyone else, to achieve improvements which are urgently needed. It is mainly in their interest and that of the people whom they represent to make the Maryland General Assembly an equal and effective partner in state government.

Strengthening the legislature is no easy task, but it definitely

should be accomplished. We can point out, explain, and suggest. Legislators themselves must consider, evaluate, and choose from among items on the growing calendar of reform. It is they who must adopt necessary changes and ensure not only that they work but also are modified and revised as changing conditions demand.

The Eagleton Institute of Politics undertook this assignment at the request of Marvin Mandel, Speaker of the House of Delegates, and William James, President of the Senate, acting on behalf of the Legislative Council of the General Assembly. In order to understand the workings of the legislature, the problems it faces, and the most appropriate remedies, we have pursued our investigation in three principal ways.

First, we have interviewed approximately one-third of the current members of the legislature in an effort to learn what legislators believe to be the most essential reforms. In late 1966, ten former members of the General Assembly were questioned by interviewers using a preliminary schedule. On the basis of this pilot survey, the interview schedule was revised, and during the first four months of 1967 both open-ended and structured questions were administered by three field researchers in interviews ranging from about one to two hours. Our objective was to solicit the views of a stratified probability

sample of present members of the General Assembly, with leaders and committee chairmen purposely overrepresented. Due to difficulties in scheduling meetings during the course of the legislative session, it was possible to interview 59, or about three-fourths, of the 78 members in our original sample population. We trust that their perceptions and opinions generally reflect those of their colleagues, since, as far as analysis can determine, they appear representative of members of the entire General Assembly.*

Second, we have not relied on standardized interviews. We have spoken to a number of legislators more intensively and at greater length on subsequent occasions. In addition, we have discussed legislative practices, problems, and proposed changes with staff, newspapermen, executive officials, and others who are concerned about the

*Of the 59 legislators interviewed, 24 percent are senators and 76 percent delegates. In the 185-member legislature, 23 percent are senators and 77 percent delegates. Democrats constitute 83 percent of our completed sample, they constitute 82 percent of all Maryland legislators. Among respondents, 64 percent represent the more urbanized counties of the state. Among all delegates and senators, 68 percent come from these counties. About 47 percent of those we interviewed, compared to 45 percent of the total, are less than forty years old. Only in terms of seniority or experience did our sample and the entire legislature differ, and this was intentional. Since approximately two out of three members were newly elected, we felt it necessary to overrepresent the views of more senior men. Consequently, roughly half of those included in our survey are freshmen, while the other half have been members of the General Assembly for several years or more.

General Assembly. To the extent possible, we have also tried to spend time observing the legislature and its committees in action, so that we might obtain a clearer idea of how legislative groups work and arrive at decisions. All told, members of the Eagleton staff have spoken once or several times with more than one-hundred people in Maryland during the course of this study.

Third, while focusing attention on the General Assembly, we felt it imperative to make constant comparison between Maryland's legislature on the one hand and legislatures elsewhere on the other. In these comparative matters, our concern has been with the organization and practices of state legislatures throughout the nation. But we have made particular mention of recent developments in California, Illinois, and Wisconsin, states where legislative modernization has been quite successful and from whose experiences Maryland might well profit.

"Strengthening the Maryland Legislature" is the product of the efforts of several people and the cooperation of many others.

Any study of state legislatures owes a special debt to the publications of the Council of State Governments and the Citizens Conference on State Legislatures. This study is no exception.

We are grateful also for the fine work done by the Citizens'

Commission on the General Assembly and the Maryland Constitutional Convention Commission. Analyses and recommendations in their reports were especially useful as starting points in our own study.

Members of the professional staff of the General Assembly have been most cooperative. Although our gratitude is wide-ranging, we wish to give particular thanks to Dr. Carl Everstine, director of the Department of Legislative Reference, and Dr. Paul Cooper, director of the Fiscal Research Bureau, and to Leo Courtney, Ruth Pumphrey, and Joan Saalwachter.

The assistance of citizens of Maryland and members of the General Assembly, who gave freely of their time even when other business pressed upon them, is deeply appreciated. The Speaker of the House and President of the Senate, as well as a number of other legislators, provided substantial help to us throughout our investigation. Their information, their suggestions, and their reactions have been important in the formulation and reformulation of our recommendations.

In conducting this study and drafting the report, the author has had the benefit of as effective support as anyone might desire. A number of our proposals stem from the excellent counsel of Larry Margolis, formerly the administrative assistant to Speaker Jesse Unruh of the California Assembly and presently executive director of the Citizens

Conference on State Legislatures, who served as a consultant in Maryland. Jerome Bidinger, Margaret Corgan, and Henry Kenski, all of Georgetown University, interviewed some seventy legislators and former legislators and directed our attention to major areas for investigation.

At Eagleton, Donald Herzberg, the executive director, ensured that the Institute's resources were made available to this study any time they were needed. His assistant, Juanda Kirk, had the job of keeping a number of us moving back and forth and paying the bills when we did. Data processing tasks and complicated relationships with the machines at the Rutgers University computer center fell to Richard Feld. Much of the typing and proofreading and innumerable calculations were done with customary thoroughness by Edith Saks. On the basis of his good sense and experience, Charles Tantillo, who recently drafted a report for the Rhode Island legislature, offered ideas and constructive criticism at every stage. Alan Chartock directed field research, travelled back and forth from New Brunswick to Annapolis and Baltimore, and kept himself and other things moving without serious mishap. As a result of his political, diplomatic, and logistical skills, we have all survived and Maryland shows no permanent scars. Pat DeCandia is the one person who proved indispensable. Only as a

result of her unfailing good humor, her untiring efforts, and her unparalleled secretarial abilities have we been able to turn out a final product for the consideration of legislators and citizens of Maryland.

If this study and report serves its purpose, the people mentioned above deserve to share much of the credit. If we have not responded adequately to the needs of the state and of the legislature, it is not the fault of those who have worked hard at the job. The author alone must accept the blame, however grudgingly.

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I contend that the legislatures of the states have the capacity to move into greater responsibility, and that they are in a position to play an important part in strengthening their executives, streamlining their governmental structures, reforming their constitutions, improving their personnel procedures, and providing the funds for adequate state services and aid to urban and other local governments. We have so much riding on state legislatures that they are going to have to rise to their challenges....The demands on them in the coming years are going to be tremendous if the states are to shore up the federal system. And the citizens, counting heavily on the state legislatures, as they must, would do well to give them all the support they will need.

Terry Sanford

Generally speaking, the legislature is not equipped to deal with today's problems at their appropriate level of sophistication and complexity nor is it able adequately to evaluate the executive department's proposals to solve those problems. But legislatures will not return to coordinate status unless legislators are willing to lead. And leading is a lonely job. Until legislators are ready to look upon themselves and their efforts as worthwhile and necessary, no amount of cajolery or persuasion will convince the public of it. What happens to the legislatures of this Nation will depend ultimately upon many things and many people but initially it depends upon you--legislators.

Jesse M. Unruh

CHAPTER I. LEGISLATIVE PERFORMANCE

We live in an age dominated by chief executives and administrators. Yet American democracy continues to depend on the strength and vitality of its legislatures. Checks and balances is more than an antique notion willed us by our Federalist forefathers. Today, as never before, it is a fundamental principle for the conduct of representative and effective government.

At one time the major purpose of the legislature was to prevent executive tyranny. Few tyrants have gone far in American politics, largely because of the common sense of American electorates, but also because of the watchfulness of American legislatures. The tyrannical executive is not an imminent danger now, but the job of the legislature is as important as ever. If the executive is weak or unimaginative, it falls to the legislature to propose solutions to public problems. When a president or a governor is unwilling to act and when action is required for the welfare of nation or state, citizens may seek leadership in the legislature.

Just as critical is the legislature's job of checking technicians and specialists in the burgeoning bureaucracies of government. Elected politicians have common stakes, for one arena of contest today is between entrenched officialdom and politicians everywhere. It is true that elected executives rely on and encourage disunity among bureaucrats to maintain

control of what are purportedly their administrative families. But such internal checks are insufficient, since it is often to the executive's advantage to suppress controversy and shield the administrative family from outside scrutiny and criticism.

In view of the significance of administrative bureaucracies to contemporary public life, external checks are an absolute necessity. It is not that bureaucrats and specialists are malevolent, but like all of us they make mistakes. Some mistakes stem from faulty reasoning, some from foolishness. Others stem from the fact that bureaucrats have vested interests in their own programs, and their views are narrowed as a result of the prestige and privilege their success confers upon them. Still other mistakes occur because of bureaucratic perspectives, assumptions, and values, which are not necessarily shared by people affected by their decisions.

Executive bureaucracies, however benevolent, will ignore important matters, emphasize unimportant ones, and overlook many things that ordinary people have on their minds. Legislators, however self-seeking, are more inclined to raise such matters. They know their districts and are constantly made aware of a huge variety of interests, concerns, and complaints. They are directly accountable to constituents of every type, and, if they are to survive in office, must represent and

reconcile local views as best they can. Given their accountability, diversity, and multiplicity of perspectives, legislatures are the best means yet devised for ensuring responsive and effective administrative performance.

These are weighty arguments in justification of vigorous legislative systems. Logic supports legislatures, but twentieth-century realities undermine them. Throughout the world, and for a variety of reasons, their strength has waned. Initiative in policy-making and financial matters has to a large degree been abdicated or wrenched from legislative hands. The British House of Commons, once sovereign, is now the handmaiden of Cabinet Government. The United States Congress, formerly the equal of presidents, still ranks as one of the healthiest legislatures in existence, but it too has witnessed a steady erosion of power. By comparison with Congress, most state legislatures exhibit symptoms of illness which make recovery highly conjectural. They are on the critical list of American political institutions.

The General Assembly of Maryland appears to be healthier than many, but certainly weaker than other legislatures. Its condition has recently taken a decided turn for the better. The behavior and accomplishments of the 1967 General Assembly met with enthusiastic response from press and public alike. As the past session ended, the Washington Post,

for instance, lauded Maryland's legislature for "pumping through more constructive legislation than in any other year in memory" (March 28, 1967). The General Assembly's image was being refurbished. Nevertheless, real disabilities continue to persist.

Any state legislature, including the Maryland General Assembly, faces several tasks if it is to fulfill its obligations as a major political institution. First, it must help formulate state policies and programs, by playing an independent part in proposing, considering, and enacting legislation. Second, it must appropriate funds for state government and programs. Third, it must oversee, review, and generally supervise state administration, to make sure that legislative enactments are carried out and that laws accomplish what the legislature intended. Finally, it must represent and help out constituents, expressing their interests, answering their requests, keeping them informed, and putting them in touch with administrative agencies.

According to members of the General Assembly, legislative performance of these tasks is not what it should be. About one-third feel that the legislature does no better than a poor to middling job in funding state programs and representing constituents. Almost half think that the legislature is not up to par in formulating state policies. As many as three-quarters believe the legislature is

less than effective in oversight and review of executive performance.¹

As Table 1 shows, substantial percentages of the members interviewed, including senators and delegates and leaders and rank and file, feel that there is considerable room for legislative improvement.

Some relationship between the quality of legislative performance, on the one hand, and the influence of the General Assembly, on the other, would seem logical. Therefore, we asked Maryland legislators for their assessments of the influence of the legislature as compared with that of the governor and executive departments and agencies.

Legislative influence should be about the same as that of the chief executive in a governmental system of coequals. Throughout the country, however, governors tend to dominate--establishing goals, outlining programs, deciding on priorities, and pressuring legislatures to go along. In fact, if not in theory, the governor has become the "chief legislator" in nearly every state of the nation. Maryland is no

¹The fact that more members think the General Assembly weakest in the areas of policy-making and oversight is hardly surprising in view of the performance of other state legislatures. An Eagleton survey of a few legislators from each of fifteen of the largest states found that performance was considered better in funding and representing and poorer in formulating policies and overseeing the executive. Center for Legislative Research and Service, Eagleton Institute of Politics, "One-Third of the States: Materials Prepared for Participants in the Carnegie Conferences on State Legislatures," May, 1967.

TABLE 1. THE PERFORMANCE OF
LEGISLATIVE TASKS

Percentages Considering Performance Poor or Only Fair					
Legislative Tasks	House (N=45)	Senate (N=14)	Leader (N=19)	Non- Leader (N=40)	Total (N=59)
Formulating State Policy	48	43	42	51	47
Funding State Programs	44	21	44	36	39
Oversight and Review of Executive	79	60	74	76	74
Representation of Constituents	36	33	35	36	35

exception. Almost three out of five members of the General Assembly and as many as 70 percent of the leaders feel that the legislature has less influence on state policies than the governor. On some issues, of course, the General Assembly wields more influence than on others. Revenue and tax policies, regulatory programs, and minor matters are subject to greater legislative participation than other issues.

Elected members of a state legislature should have more to say about the direction and substance of public policy than appointed officials in the executive branch. In fact, however, department and agency heads often have the largest voice in determining the kind and shape of programs to be administered by bureaucrats under their direction, frequently with only the merest legislative control. As one executive official commented, for all intents and purposes, the department is the legislative committee and the legislature. Its proposals and its administration go almost unquestioned. Members of the General Assembly are certainly aware of the power of executive officials and bureaucracies. Over 40 percent believe that departments and agencies have greater influence in fashioning state policy than the legislature itself. Even a higher percentage of legislative leaders feel this way.

If legislative performance is to be improved and legislative strength is to be increased, then the General Assembly must address

its energies to significant reform. Serious problems confront the Maryland legislature. Nearly every member interviewed mentioned one or several which demanded remedy. First, the problem of time. One-third noted that there was just not enough time to do the legislative job properly. Well over half felt that insufficient time was devoted to reviewing the governor's budget. Four out of five expressed reservations about how they had to divide up their individual time as legislators and over half felt that time was neither efficiently nor wisely used by the General Assembly. Second, the problem of the committee system. One-third of the legislators interviewed cited difficulties such as the weakness of standing committees, the insufficiency of interim work, and the unequitable distribution of committee workloads. Third, the problem of staff and services. Nearly half regretted the lack of staff support and research assistance, both of which were necessary if intelligent information were ever to be brought to bear on state issues. Fourth, the problem of legislative procedures. Half the members noted the inadequacy of one or another House or Senate procedure in terms of encouraging efficient and rational legislative action.²

²A random sample of members of the United States House of Representatives held similar views on problems which prevented the House from operating as it should. Nearly all mentioned time; 27 percent referred to committee-related difficulties; 78 percent cited lack of information; and 43 percent mentioned scheduling and general procedures. Hearings before the Joint Committee on the Organization of the Congress, Organization of Congress, Part 5 (June 7, 8, and 9, 1965), p. 776.

Problems will always persist. But now, perhaps more than ever, the General Assembly is willing to change its organization and procedures in an effort to remedy them. As we shall show below, individual legislators are receptive to change and legislative leaders are willing to consider and propose reforms that promise to make the legislature a formidable partner in the governmental enterprise.

We are entering an era which promises to witness either the demise or renaissance of state government and state legislatures. There are increasing signs that a resurgence is underway. At the present time, over three-fifths of the nation's legislatures are undergoing intensive studies, some conducted by legislative councils or interim committees, some by citizen groups, others by commissions made up of both legislators and citizens, and a few by university centers such as the Eagleton Institute of Politics. Maryland is in good company. It is our hope that the General Assembly, which has already made progress by consolidating standing committees, appointing a committee to recommend improvements in the budgetary process, and providing for small expense allowances, will be able to make further strides forward as a result of suggestions offered in this report.

In the following chapters we address attention to problems which loom as primary obstacles to a strengthened General Assembly. The

objective is to improve structural and procedural aspects of the legislative process in order to give the General Assembly more time, help, and relevant information, as well as greater incentive to perform ably.

p. 13 Chapter II concentrates on proposals designed to provide additional time and methods to make more efficient use of it.

p. 48 p. 96
Chapters III and IV focus on the principal agencies of legislative participation in policy-making--standing committees and House and Senate leaderships, operating during the session and in the interim.

p. 123
Chapter V takes up the question of legislative staff and information and how each may be used to best advantage.

p. 166 p. 193
Chapters VI and VII pay particular attention to the budgetary process and fiscal analysis, suggesting ways in which legislative action and review can be made more effective.

p. 224
Chapter VIII examines other ways in which legislators can better represent and service citizens and, reciprocally, the people of the state can support their legislature.

p. 246
Chapter IX presents a summary of recommendations which have been presented throughout the report.

Our recommendations are designed to: (1) increase legislative efficiency, by offering methods by which time, money, and effort can be spent more meaningfully; (2) increase legislative independence, by

suggesting ways in which the legislature may become more autonomous with regard to sources of information, terms of analysis, and the formulation of state policies; and (3) increase legislative participation, by proposing changes which encourage sustained concern, study, and review of state problems in need of constant governmental attention.

What we suggest, if adopted and carried out, should result in a strengthened, more powerful legislature. Whatever the promise, however, there are likely to be objections.

Some people worry about a strengthened legislature interfering with the smooth workings of state government. One legislator posed the question: "Do you want to increase our power or do you want more efficient government?" Conceivably, overall efficiency might be slightly diminished, but this is a small price to pay for a more responsible and responsive state government. Moreover, if the legislature takes its job seriously and behaves conscientiously, governmental efficiency will be promoted, not retarded.

Others are concerned that a strengthened legislature will lead to a weakened executive. This is understandable, especially since the governor of Maryland has considerably less authority over his executive establishment than governors in most states. But strengthening the legislature will not necessarily detract from the power and effectiveness of the

governor. As a matter of fact, often both executives and legislatures are weak, as in Georgia. Occasionally, both are strong, as in California. Our belief is that Maryland will benefit if executive and legislature are strengthened, so that each branch may stimulate the other in healthy competition at devising the best solutions for state problems.

Some people, particularly legislators themselves, are naturally fearful that major change will curtail their own powers and prerogatives. Our goal is to strengthen the legislature as a whole, not to increase the power of any individual or group, whether leaders or rank and file, chairmen or committee members, Republicans or Democrats, or urban, suburban, or rural representatives. Hopefully, the influence of all will be enhanced as a result of more meaningful participation.

In the process of change, there can be no guarantees. But immobility carries greater risks for the future of state government than does the adoption of reforms in organization, procedure, and conduct by the legislature. If energetically pursued, the suggestions we advance in this report should benefit the General Assembly and the state of Maryland.

CHAPTER II. TIME AND EFFICIENCY

In the past few years the job of state government has been expanding at a rapid rate. The increasing complexities of modern industrial life, the enlarged role of the federal government, and the growing recognition that states' rights imply state responsibilities--all lead to an inescapable fact. States today face monumental challenges.

As much as anywhere else, the burden on government has risen tremendously in Maryland. The job of the General Assembly is more complicated and more time-consuming than ever before. Some idea of the increase in workload is given by comparing the number of bills introduced and enacted a decade ago with those handled recently. In 1954-55 the General Assembly enacted 804 bills of the 1,876 introduced. Ten years later it enacted 1,375 of 2,978 introduced. During this time the increase in introductions was 59 percent, in enactments 71 percent. Meanwhile, the average increase in introductions for all the states of the nation was 36 percent, in enactments 21 percent. As one can see, the Maryland legislature's workload has increased at a significantly greater rate than that of other states across the country.

In 1965 the Maryland legislature had 34 percent more bills introduced and 18 percent more enacted than in 1961, a larger increase in workload than in neighboring Delaware, Pennsylvania, Virginia, and

West Virginia, and far greater than the average increase for all fifty states. In 1961, eighteen bills were introduced in the General Assembly per legislative day; four years later twenty-seven bills were introduced on the average each day the legislature was in session. And by the end of the 1967 session, the daily average had increased to twenty-nine. The expanding job of the General Assembly is incontrovertible.

It is little wonder, then, that legislators feel hard pressed. If they care at all, indeed they are. One way to meet the problem is to provide additional time for the General Assembly to consider the budget and legislation. Another way is to suggest methods by which the legislature can make better use of its time both during the session and interim. Organizational changes and a greater availability of staff and informational resources are essential if time is to be effectively used. These matters we shall attend to in subsequent chapters. For the moment, we shall consider changes, primarily of a procedural nature, which should help the General Assembly perform its several tasks efficiently and effectively.

Legislative Sessions

In principle, no state constitution should include a provision limiting the length of the legislative session. The power to determine session length should be the legislature's, and the legislature, through statute or resolution, ought to be able to schedule sessions of unlimited

duration. Prescriptions for legislative reform are practically unanimous on this point. The American Assembly and its regional assemblies, the Committee for Economic Development, and the Council of State Governments all recommend that restrictions upon the length of regular sessions be removed.

As a matter of fact, only one-third of the states have no time limit on legislative sessions. And of these only eight provide for annual sessions of unlimited duration. By contrast, twenty years ago half the states imposed no restrictions on regular sessions. This does not indicate that states have been moving in the wrong direction. An abstract principle should not be slavishly followed, whatever the particular climates and conditions. A number of states have responded to demands of an increasing workload by lengthening sessions and providing for annual rather than biennial meetings. We see no reason why every state should adhere to a principle which, however appealing on paper and in the texts of reform, may serve little purpose in practice.

Despite the tradition of limiting sessions by constitutional provision, the Maryland General Assembly has seen the length of its session changed a number of times. Before 1950, for example, regular sessions ran no longer than ninety days in odd-numbered years. However, in 1948 a constitutional amendment added a thirty-day session

in even-numbered years because of "the increase in the business of the State, especially the growth of state expenditures and the accompanying desirability of more legislative attention to the budget."¹ In 1964 another change was made by amending the Constitution. Instead of alternate long and short sessions, Article III, Section 15 was altered to provide for seventy-day sessions in each year. There has been nothing sacrosanct about the period of time during which the General Assembly might meet. Change by means of constitutional amendment has been forthcoming whenever necessary.

The present seventy-day session is not sufficient. But a much longer period will not be necessary in the foreseeable future. Especially if our proposals for improvement in procedures, organization, staffing, and interim work are implemented, ninety days will give the legislature adequate time to review the governor's budget and make its determinations on legislation. Most legislators agree, as our survey results reported in Table 2 show. Roughly two-thirds feel an extension to ninety days necessary, while only half see the need for even more time. Significantly,

¹George A. Bell and Jean E. Spencer, The Legislative Process in Maryland, Second Edition (Bureau of Governmental Research, College of Business and Public Administration, University of Maryland: College Park, Maryland, 1963), p. 34.

TABLE 2. LENGTH OF SESSIONS

Percentage Agreeing with Propositions*					
Propositions Concerning the Length of Session	House (N=45)	Senate (N=14)	Leader (N=19)	Non- Leader (N=40)	Total (N=59)
Extending session to 90 days	56	91	79	58	64
Extending session to more than 90 days	50	43	44	50	49
Removing length-of- session limits from Constitution	50	46	44	50	48

*Others include not only those who disagree but also those who are neutral or undecided.

experienced legislators, who make up the leader group in our sample, overwhelmingly favor a ninety-day session while opposing a lengthier period. Some members, it should be noted, think seventy days would suffice if the committee structure were working properly or if additional staff were provided. Improvements along these lines will help. Nevertheless, reorganized committees and increased staff will, and properly should, generate additional work for legislators, and thereby easily fill the extra twenty days we recommend. The idea is for legislators to assemble in Annapolis annually and, with interim preparation behind, get the work done in a prescribed period, stop, rest and calm down for awhile, and then resume interim study in anticipation of the forthcoming session.

At the present time, there is some value in a ninety-day session being prescribed in the Constitution. The Interim Report of the Constitutional Convention Commission maintains that such a limitation "provides an impetus for the prompt and efficient conduct of legislative affairs" and also "encourages service as legislators by persons whose business pursuits will not permit an absence of indeterminate length" (p. 66).²

²Constitutional Convention Commission, Interim Report, May 26, 1967. Here and throughout, page references to the Commission report will be included in parentheses when mention is made in our text.

On the other hand, the Commission's Committee on the Legislative Department recommended that there be no constitutional limit as to the length of sessions, since the benefits of forcing action would be outweighed by precipitous and unwise decisions that might result.

We endorse the view of the Commission majority that there be a foreseeable end to each legislative session. Otherwise, compulsions to postpone and evade decisions or to artificially create work to fill up the time allotted would be almost irresistible. Likely, sessions would be prolonged to the last possible moment, with log jams of legislation not very different than they are today. The result would be inconvenience, frustration, and needless strains on members and a legislative leadership which would do better to reserve its energies for solving other imposing problems. As Table 2 indicates, members of the General Assembly are sharply divided on the question and only a minority of leaders favor removing session limitations from the State Constitution. In the future, when the legislature has become accustomed to dealing more effectively with its own organizational and procedural problems, it may take on the added responsibility for determining the length of its sessions. Until then, the predictability provided by constitutional provision makes good sense.

Some leeway beyond ninety days is also possible. The Constitutional

Convention Commission recommends that a special session be convened if three-fifths of all the members of each house so request. We endorse this proposal to give the General Assembly the same powers as the governor. This has been the trend across the nation. In 1947, for instance, only eight legislatures had the power to call themselves into special session. Now fifteen can do so. Maryland should take its place on the growing list of states. Thus, not only will the coordinate status of the General Assembly be reaffirmed, but the legislature will be able to meet for an additional period of not more than thirty days if unusual circumstances warrant it.

On one point, we must take issue with the Commission's recommendation pertaining to sessions. Its draft report suggests a session of seventy days, which may be extended for an additional period of not more than thirty days by vote of three-fifths of all members of each house. In line with the report of the Citizens Commission on the General Assembly (which we shall hereafter refer to as the Wills Commission after its chairman, George Wills)³, we propose a flat

³The Citizens' Commission on the General Assembly Reports to the Legislature and the People of Maryland, January, 1967. Here and throughout, page references to the Wills Commission report will be included in parentheses when mention is made in our text.

ninety-day limitation. Apparently, the Commission believes that its recommendation will pressure the General Assembly to complete its major work in seventy days. The thirty-day option would supposedly provide a means for taking up pressing additional matters and cleaning up pending minor ones. Such a provision, however, would soon result in an almost automatic one-hundred-day session. With such an escape clause and the genuine need for more time, the notion of pressure is inappropriate. The optional scheme might only result in time-consuming maneuvers to prolong the session to the maximum one-hundred days. A clear-cut time limit, with the possibility of a special session for extraordinary cause, is preferable. It offers maximum predictability, which at the present stage of the legislature's development, seems highly desirable.

Therefore, on the topic of legislative sessions we recommend that:

- (1) The new Constitution limit the length of the regular session of the legislature to ninety days;
- (2) The governor may convene a special session of the legislature at any time and must convene a special session upon the request of three-fifths of all the members of each house, but that such sessions be limited to not more than thirty days.

Legislative Scheduling and Procedures

Not only must additional time be allotted for the General Assembly's deliberation on the state budget and proposed legislation. To avoid a huge accumulation of work at the close of a regular session, time must be used in such a manner that the legislature may conduct its business more efficiently. The rush for adjournment with frantic efforts to deal with the last-minute legislative "log jam" should be relieved insofar as possible. Now, almost two-thirds of all bills enacted are passed during the last week of a legislative session. As Table 3 shows, four out of every five bills that are passed are decided during the final two weeks. Strategic reasons dictate that some matters be deferred until the last days. We recognize that bargaining takes place and trades are necessarily made, but surely not in the case of 80 percent of all legislation enacted. Many issues can be disposed of earlier if scheduling practices and procedures, as well as leadership efforts, encourage more rational distribution and expeditious handling of the legislature's work. The suggestions we offer below encompass only a few of the many practices employed in other states. They seem most appropriate at this time for adoption by the General Assembly.

Pre-Session Filing

There is general agreement today that one means of increasing

TABLE 3. THE LEGISLATIVE LOG JAN, 1966 AND 1967

Number and Percent of Bills Passed by Both Houses During Consecutive Two-Week Periods						
Sessions	First and Second Weeks	Third and Fourth Weeks	Fifth and Sixth Weeks	Seventh and Eighth Weeks	Ninth and Tenth Weeks	Total Passed
1966 Number	2	25	25	91	651	794
Percent	0.3	3.1	3.1	11.5	82.0	100.0
1967 Number	0	33	31	101	624	789
Percent	0.0	4.2	3.9	12.8	79.1	100.0

Source: Data provided by Department of Legislative Reference.

legislative efficiency is to authorize and encourage the drafting, filing, and printing of bills before the opening of the session. As of early 1967 about seventeen states provided for pre-filing of bills, compared with about six states twenty years ago. In addition, the Colorado Legislative Council, the House Operations Committee of Delaware, and the Ohio Committee on Legislative Facilities have recommended pre-session filing procedures during the past year or so.

Presently, the Maryland General Assembly does not authorize pre-filing of all bills. Legislative Council bills, however, are in effect pre-filed and any legislator may have a bill drafted by the Department of Legislative Reference before the regular session begins. General pre-filing would also help, particularly if the standing committees of the two houses are to function during interim periods, as we propose in the next chapter. Such a procedure would contribute to improvements in legislative work by helping redistribute the burden of bill drafting from the session to the interim, permitting committee chairmen and members to begin working on their session agendas somewhat earlier than now, and expediting legislative action by a more evenly balanced workload throughout the period when the legislature is meeting. In addition, as the Wills Commission points out, pre-filing may increase citizen awareness of proposed legislation by

allowing news coverage and public discussion prior to the time when the legislature convenes (p. 19).

Our survey of the views of Maryland legislators shows that they overwhelmingly support the idea of pre-filing. As the first row of Table 4 indicates, members of the House and Senate as well as leaders and rank and file endorse such a change almost to a man. The Wills Commission also recommends pre-filing procedures. We generally concur with its recommendation.

In order to help deter the perennial log jam and give committees an earlier start on including proposed bills in their agendas, we recommend that:

(3) The General Assembly adopt procedures permitting any member or member-elect to pre-file bills with the secretary of the Senate and the chief clerk of the House after November 15 of each year. These bills might be printed in advance, but would be referred to committee only after the legislature convened and organized.

Bill Introduction

Recently, a number of states have instituted deadlines for different stages of legislative procedure in order to relieve the end-of-session log jam. Legislatures in Michigan and Oklahoma are reported to have achieved some success in distributing the workload over the session by

TABLE 4. LEGISLATIVE PROCEDURES
AND WORKLOAD

Procedural Proposals	Percentages Agreeing with Proposals for Change*				
	House (N=45)	Senate (N=14)	Leader (N=19)	Non- Leader (N=40)	Total (N=59)
Pre-session filing	95	100	94	98	97
Earlier limitation on introduction of bills during session	59	92	61	69	66
Earlier termination of legislative con- sideration of budget	71	67	65	73	70
Consent calendar to provide for automatic referral of noncontro- versial bills	86	93	89	87	88
Provision for county and local home rule	84	100	89	88	88

*Others include not only those who disagree but also those who are neutral or undecided.

using a timetable--including deadlines for the introduction of bills, committee action on bills, and passage of bills--to schedule major steps in the legislative process. This year, the Illinois Commission on the Organization of the General Assembly recommended a procedures schedule and timetable to govern the flow of legislative work.⁴ The proposal was adopted and incorporated into House and Senate rules of the Illinois General Assembly.

One of the most significant features of such a schedule pertains to the cut-off date on the introduction of bills. Since 1947 virtually every state has specified a period during which bills may be introduced. Moreover, the tendency has been for legislatures to gradually curtail the number of days during a session when introductions are permissible. Nearly all, however, provide certain exceptions to time limitations on the introduction of bills. Some require unanimous consent, others a two-thirds vote of members present or those elected.

Maryland's limitation is presently specified in Article 3, Section 27 of the Constitution, which reads in part:

⁴Improving the State Legislature (Urbana, Illinois: University of Illinois Press, 1967), pp. 23-25.

No bill shall originate in either House during the last twenty-eight calendar days of a regular session, unless two-thirds of the members elected thereto shall so determine by yeas and nays, and in addition the two Houses by joint and similar rule may further relegate the right to introduce bills during this period....

An earlier termination for the introduction of bills would seem most appropriate. The Wills Commission suggested that no bill be introduced during the last thirty-five calendar days of a session, unless two-thirds of the members of a house decide otherwise (p. 19). Legislators tend to agree, with two-thirds in our survey favoring an earlier limitation. This is indicated in the second row of Table 4 on page 26.

The tendency among states having limited sessions is to set cut-off dates falling about midway in the session. For example, in early 1967 Idaho had a cut-off for introductions on the 25th day of a sixty-day session, Montana on the 20th day of a sixty-day session, and Indiana about the 30th day of a sixty-one-day session. Pre-filing should make a midway termination date particularly feasible. In Louisiana, for instance, the cut-off on introductions comes on the 21st day of a sixty-day session. Yet, in view of pre-filing, a committee recommended that the termination date occur only ten days after the opening of the session.⁵

⁵ Committee to Consider Changes in the Powers, Duties and Responsibilities of the Governor, Report (May 11, 1966), pp. B-7, 8.

Especially if pre-filing is adopted by the General Assembly, the cut-off on introduction of bills should fall half way through the session. In a seventy-day session, as is now the case, the termination date would be the 35th day. With a ninety-day session, as we propose, the termination date should be the 45th day. In effect, this would mean that bills must be submitted for drafting at least five days in advance of this time. Such a limitation certainly will not inflict hardship on individual legislators who now have only forty-two days of the session in which to introduce bills.

Alone, this procedural change is insufficient. Maryland, like most other states, makes exception for introductions past the deadline. Certainly, exceptions must be made. There is no conceivable way to ensure that all major proposals will be ready by a particular date or that no emergencies requiring legislation will arise during the latter part of the session. But such instances should be exceptional. The problem in the Maryland legislature, particularly the House, is that it has become a pro forma matter for two-thirds of the members to agree to late introductions. This is because few legislators care to publicly deny their colleagues opportunities they themselves might sometime wish to use.

During the last session, the Committee on Rules, Organization

and Executive Nominations of the House of Delegates did screen bills that were introduced during the last twenty-eight days of the session. Of the approximately 1800 bills introduced in each of the 1966 and 1967 sessions, somewhat more than twenty percent were filed after the cut-off date. Of these only the very latest, perhaps half of the total, were referred to the Rules Committee. It should be noted, however, that considerable improvement was made in 1967, when only fifty-five bills were introduced during the last three weeks of the session.

If late introductions are to be controlled, the decision cannot be left entirely in the hands of the House and Senate as a whole. The compulsion of members to acquiesce, whatever the merits, is simply too great. Once introductions are permitted by a vote of two-thirds of members of either the House or Senate, a bill introduced after the deadline should automatically be referred to the rules committees for final decision as to its disposal. These committees might require sponsors of such bills to appear and justify their late introduction. Acting in concert, members of the rules committees should be able to screen bills carefully and be willing to take whatever heat comes from making decisions unpopular with a few individual members. Given a liberal cut-off date for bill introduction, opportunities to pre-file, and rules specifying the obligations of legislative management, it is likely that late introductions can be

significantly curtailed.

Another possibility also exists. Some members of the General Assembly suggest that there be an earlier deadline for department and agency bills than for measures introduced by legislators. We see no way of distinguishing in practice between the two types of bills, since departments and agencies will always be able to persuade individual legislators to sponsor their proposals. However, the executive branch should be requested to have departments and agencies submit their legislation early in the session. This is little enough to ask, especially in view of recent statements by the governor's assistant for legislative liaison. In testifying before the Wills Commission, he noted that his office would iron out conflicts over legislation among executive departments and that all bills desired by the executive branch could be prepared well in advance of the session.

In summary, then, our recommendations on scheduling procedures for the introduction of bills are that:

(4) The new Constitution not restrict the General Assembly's authority to determine deadlines for the introduction of legislation (thus deleting Article 3, Section 27 of the present Constitution);

(5) Rule 35 of the Senate and House of Delegates be altered to provide for either of the following:

(a) If the regular session is limited to seventy days, no bill shall be introduced in the Senate/House during the last thirty-five calendar days of a regular session, unless two-thirds of the members elected thereto shall so determine by affirmative vote of yeas and nays, and any bill so introduced shall be referred to the Committee on Rules, Procedure, and Organization;⁶

(b) If the regular session is extended to ninety days, no bill shall be introduced in the Senate/House during the last forty-five calendar days of a regular session, unless two-thirds of the members elected thereto shall so determine by affirmative vote of yeas and nays, and any bill so introduced shall be referred to the Committee on Rules, Procedure, and Organization;

(6) Members of the Committees on Rules, Procedure, and Organization pursue the job of screening with utmost diligence, referring to standing committees only those bills whose late introduction can be properly justified;

(7) The General Assembly, by joint resolution, request the governor to make every effort to have executive bills introduced during the opening days of the session so that the legislature has ample time to give them the consideration they deserve.

⁶See Chapter IV for an explanation of proposed responsibilities and composition of Senate and House Committees on Rules, Procedure, and Organization.

Budget Scheduling

Intensive analysis of the budgetary process will be postponed until Chapters VI and VII. For the moment, we shall consider only the scheduling of deliberations on the governor's budget and closely related matters. These questions, of course, bear directly on the time problem which the General Assembly faces.

Under the present Constitution, the governor is required to submit his budget on the third Wednesday in January of each year, the same day that the legislature convenes. In the case of a newly elected governor, submission may be delayed ten days after convening (Article III, Section 52 (3)). The Constitutional Convention Commission's draft proposal makes only minor change in this provision, suggesting that a newly elected governor have an additional twelve days instead of ten so that his budget may be completed over a weekend and submitted on a Monday (p. 158). We are in full accord with the Commission's recommendation.

Presently, the Constitution does not specify a time by which the budget should be enacted. Article III, Section 52 (10) provides that if the legislature does not pass the budget bill three days before the end of the regular session, the governor shall extend the session for a further period to be devoted exclusively to the budget. In effect, then, the

deadline for budget enactment is three days before the close of the session or about sixty-seven days after its submission (fifty-seven in the case of a newly elected governor).

Another constitutional provision is of special significance. Subsection (8) of Section 52, as amended by referendum in 1966, allows either house to consider other appropriation bills but prohibits both houses from final action on appropriations until passage of the budget bill.⁷ This provision, as amended, is indeed beneficial in that it ensures priority be given the executive budget but at the same time affords flexibility to the legislature in assessing other programs which require funding. The Constitutional Convention Commission, however, recommends abandoning such flexibility and the advantages of early scrutiny by requiring that no other appropriation bill may be considered by either house until the budget bill has become law. This retrogressive change we must oppose.

As the system currently works, the deadline for enactment of

⁷ Previously each house was prohibited from even considering other appropriation measures until the budget had been enacted. In consequence, new proposals for any purpose requiring appropriation of revenues beyond those specified in the budget bill could only be introduced and referred to committee, but not reported out to the floor. As of 1967, they can be considered in committee, reported out in either or both houses, be passed in one house, and reach the point of final enactment in the other.

the budget occurs just prior to the end of the session. The tendency has been for the budget to be enacted almost at the last possible moment. In 1966 and 1967, for example, budgets were not finally enacted until the sixty-fourth day of the seventy-day session. In 1965, by contrast, the budget was passed ten days before adjournment. Even allowing for prior consideration of appropriation bills, delay on the budget helps to cause a log jam during the closing days and hours of the session. It can, and does, lead to hasty and superficial examination of legislation on the floor of both houses as the General Assembly rushes to adjourn. Admittedly, postponement of the budget bill enables the leadership of the legislature to exercise greater control and thus defeat what it considers to be "bad" or "give-away" bills in the pre-adjournment crush. Yet this type of judgment is one that properly should be made by committees, in choosing to recommend legislation, and by members of the Senate and House, in deliberating and deciding on the floor. Moreover, if a number of recommendations in this report are followed, screening out of poor bills will be accomplished by far better means.

Nearly everyone agrees that there should be an earlier time limit upon legislative consideration of the budget bill. Testifying before the Wills Commission, former Governor J. Millard Tawes and Governor

Spiro T. Agnew both advocated increasing the time period between the passage of the budget and the session's closing day. So did a number of other witnesses. The Wills Commission, in its report, recommended a deadline of fifteen to twenty days prior to the end of the regular session (p. 36). Our survey of member views indicates overwhelming support for an earlier termination date. As the third row in Table 4 on page 26 shows, about three-quarters of the rank and file and two-thirds of the leadership desire such a change. Moreover, seventy percent of the members of the two committees which handle the budget also agree on an earlier time limitation.

So does the Constitutional Convention Commission, which chooses a peculiar means of imposing a deadline. To dispatch legislative business more promptly, it recommends that if the budget has not been enacted within fifty days after its introduction, it shall become law in the form in which it was introduced (Section 6.08). Such a provision, we believe, can lead to mischief and irresponsibility, if executive and legislative factions, by dilatory tactics, combine to delay enactment so that the governor's budget automatically becomes law. More important, this provision would severely challenge the budgetary prerogatives of the General Assembly. The legislature should properly set its own deadline for passage of the budget, without provision for

automatic enactment after a certain time has elapsed. We trust that a responsible legislature would observe its deadline and that no circumstances would arise requiring automatic promulgation of the governor's budget.

We suggest two alternative plans, depending upon whether or not a ninety-day session soon becomes a reality. On the basis of a seventy-day session, the deadline for enactment should be no later than fifty days after the governor submits his budget. Ordinarily, this would allow the legislature twenty days thereafter to enact other appropriation bills. In the case of a newly elected governor, it would have only about half that time after the budget was passed. On the basis of a ninety-day session, enactment should occur no later than sixty days after the governor's submission. This would usually leave thirty days (occasionally only about twenty) for final consideration of appropriation measures. In either case, there would be ample time for acting on other legislation. There would also be sufficient time for thorough analysis of the budget bill.

One corollary of budgetary scheduling should be mentioned now, although we shall offer further justification in Chapter VI. At the present time, the House Ways and Means and Senate Finance Committees take about eight weeks to report a budget bill. Thus, the House and Senate

have at most two weeks to pass the budget and consider other appropriation measures. If budgetary review, particularly by legislative committees, is to be most expeditious and effective, the General Assembly's scheduling might be revised along the following lines. Assuming a ninety-day session, the legislature should convene to settle organizational and introductory matters. During this period it would receive the governor's budget, and the staff of the Bureau of Fiscal Research could begin intensive analysis. After two weeks, the General Assembly would recess for a period of three weeks. During this time, standing committees might begin their hearings. Most important, the two finance committees would hold morning and afternoon hearings and begin marking up the budget bill. Then the legislature would reconvene, with committees continuing to meet and plenary sessions also taking place. By this time--approximately thirty-five days after the session's start--review of the budget should be well along. Nevertheless, there would still be three weeks left for final committee consideration and enactment by the two houses.

This split-session technique is used, in one form or another, in various states. Legislatures in Delaware, Michigan, New Jersey, Pennsylvania, and Wisconsin have taken frequent recesses lately in order to improve the scheduling of legislative business. Alabama and

Florida also employ a variant of split sessions. Before convening in regular session, their legislatures meet briefly shortly after election for organizational purposes. Still another type is employed by Georgia and Tennessee. It finds the regular session divided into an initial period, a recess for committee consideration of bills, and a concluding period devoted primarily to floor action.⁸ The proposal we suggest is a modest step indeed. If followed, it should serve well to increase legislative efficiency, especially with regard to analysis of the budget.

In summary, then, to improve budgetary scheduling by the General Assembly, we recommend that:

(8) The present constitutional provision which allows either house to consider other appropriation bills, but prohibits final action by both houses until passage of the budget, be retained;

(9) The legislature determine, either by rule or statute, a deadline date for final passage of the budget, without provision for the budget as presented automatically becoming law;

⁸ Council of State Governments, American State Legislatures: Their Structures and Procedures (Chicago: The Council, 1967), p. 8. Proposals for split sessions have also been made with regard to the U. S. Congress. See Hearings before the Joint Committee on the Organization of Congress (1965), passim.

(a) In the case of a seventy-day session, the budget be enacted within fifty days of its submission;

(b) In the case of a ninety-day session, the budget be enacted within sixty days of its submission;

(10) Particularly if the legislative session is extended to ninety days, the General Assembly try a split-session technique--convening for two weeks for organizational and introductory purposes, recessing for three weeks to enable committees to conduct day-long hearings on the budget, and then reconvening for committee and floor work during the remaining eight weeks.

Other Matters of Procedure and Substance

A number of other steps are also appropriate at this time. Although they merit lesser attention than those suggested above, we consider each worthy of adoption or serious consideration.

Consent Calendar. The U. S. House of Representatives has had a consent calendar for almost sixty years. Its main effect has been to relieve the Speaker of the burden of entertaining so many motions for the consideration of bills by unanimous consent and to expedite the business of the House on bills which cause no controversy.⁹ A few states presently

⁹ See Floyd M. Riddick, The United States Congress: Organization and Procedure (Manassas, Va.: Capitol Publishers, 1949), pp. 228-231, and Lewis A. Froman, Jr., The Congressional Process (Boston: Little, Brown, 1967), pp. 46-48.

make use of the consent calendar, either to dispose of noncontroversial legislation or local bills. For example, in Minnesota the Senate makes use of a procedure called the "Calendar of Ordinary Matters", while the House uses a "Consent Calendar." Houses in Missouri and Wisconsin have similar procedures for passing noncontroversial legislation.

Much of the business of any state legislature is noncontroversial. On some issues controversy is resolved at the committee or caucus stage; on others there is little possibility of controversy at all. No doubt, a majority of bills passed each session by the General Assembly fall into the latter category.

A number of people have suggested that a consent calendar would accelerate the legislative process and increase the efficiency of the General Assembly. Such was the recommendation of members of the Maryland congressional delegation in testifying before the Wills Commission in May, 1966. Our survey of legislators found practically unanimous support for it, as the fourth row of Table 4 on page 26 indicates. The Wills Commission, in reporting to the General Assembly, also called for a consent calendar "to provide for automatic referral of noncontroversial bills to final reading after being reported out of committee" (p. 18).

We favor such a device. But ground rules will have to be worked

out so that only noncontroversial bills are included and legislative "snakes" are not permitted to pass unnoticed. It should be the responsibility of majority and minority leaders to police the consent calendar and, perhaps, to object to bills at the request of members of their party. One possibility, as suggested in a previous Eagleton study, is to prepare a potential consent calendar from lists of non-controversial bills submitted by each legislator. Each legislator may be authorized to strike from the compilation any bills he thinks controversial. Those not stricken may then be placed on the consent calendar as they are reported out of committee.¹⁰ Another possibility, as practiced in Minnesota, is to allow the committee chairman and members to make the initial decision on whether a bill should be reported as noncontroversial and placed on the consent calendar. In any case, following in part the procedure in the House of Representatives, if there is objection by a number of members to consideration of a bill, it should be removed from the calendar for the remainder of the session. If there is no objection, the presiding officer may announce that: "The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table."

¹⁰The New Jersey Legislature (New Brunswick, N. J.: Eagleton, Rutgers-The State University, November 15, 1963), p. 16.

Our recommendation, therefore, is that:

(11) The General Assembly adopt a consent calendar and by legislative rule provide procedures, whereby noncontroversial bills can be enacted expeditiously and controversial ones will be screened out at some stage in the process.

Previous Question Motion. During the 1967 session, on a few occasions members of the Maryland Senate made use of dilatory tactics, speaking extensively, to bring business to a halt. The hands of the leadership were tied, since there was no procedure to cut off debate. In the House of Delegates, floor consideration is expedited by the existence in the rules of a motion for the previous question. The motion is not debatable, and if carried brings the House to a direct vote on the immediate question before it (Rule 61.7).

Most legislative chambers in the United States include in their procedures previous question motions to end debate. In our review of the rules of forty states, we found that every House and three-quarters of the Senates provided for the previous question. Southerners in the U. S. Senate are the staunchest advocates of unlimited debate and the most steadfast opponents to any liberalization of the cloture requirement. Nevertheless, Senates as well as Houses in southern states such as Georgia, Louisiana, Mississippi, North Carolina, and Virginia make use of the previous question motion.

We feel that the Maryland Senate should adopt a rule which would allow a majority to terminate debate. Most members, we are informed, favor such a provision, particularly in view of the recent enlargement of the Senate. Therefore, we recommend that:

(12) The Senate alter its rules on motions to include as 61.7 a provision similar to that of the House of Delegates: For the previous question. The motion is not debatable, and if carried shall preclude all further debate and bring the Senate to a direct vote upon the immediate question before it. The motion for the previous question may be made on any debatable motion before the Senate.

Local Legislation. While specific questions with respect to county and local government are beyond our purview, we feel it necessary to broadly support constitutional and other measures designed to further home rule. Local legislation should not prevent the General Assembly from attending to its major concern--statewide problems. There can be little doubt that matters of local import now consume too much of the time of Maryland legislators. In 1953, 1957, 1963, and 1965, for example, approximately one-third to one-half the total number of bills introduced were of local character.¹¹ Provision exists for a

¹¹Bell and Spencer, The Legislative Process in Maryland, p. 86, and Constitutional Convention Commission, Interim Report, p. 172.

degree of home rule now. Still there is a large and unnecessary burden on the General Assembly, in part because county officials prefer to pass the buck to their state delegations rather than take on responsibility for many decisions.

The legislature has devised methods to cope with the annual deluge of local legislation. Actually, not too much time is taken up with these matters on the floor of the House and Senate. But the task can be burdensome in other ways. Local bills are referred to select committees in each house. In the Senate, a member from the county concerned will join with two of his colleagues on a select committee. In the House, the committee is composed of delegates from the county sponsoring the bills. All of this takes members away from their work on standing committees and other legislation. Moreover, since passage of local bills has become a matter of legislative courtesy, county representatives really make decisions for the entire legislature. This hardly enhances the power of the General Assembly. It only leads to public confusion about where responsibility for deciding local problems actually resides.

The last row in Table 4 on page 26 indicates that almost nine out of ten legislators surveyed support greater home rule to relieve the General Assembly of its local-legislation burden. The Wills Commission

also makes a proposal along these lines (pp. 45-46). We are of like opinion, and therefore recommend in general terms that:

(13) By constitutional provision or statute, means be devised to relieve the General Assembly of the burden of considering local legislation and to permit purely local matters to be decided at the county or municipal level.

There are other possibilities for improvements in scheduling and procedures. In the future the General Assembly might consider a general legislative timetable, specifying deadlines not only for the introduction of bills but also: a final date for standing committees to report bills originating in their respective houses; a final date for passage of bills in the house of origin; a final date for standing committees to report bills originating in the other house; a final date for passage of bills originating in the other house; and a final date for consideration and adoption of conference committee reports. Those on which we have focused seem most important, however. They are either directly related to the business of the Constitutional Convention or are matters which can be settled solely by the legislature.

To be successful in promoting legislative efficiency, reforms, such as deadlines for the introduction of bills and passage of budgets, must be observed. Observance depends not only on the cooperation of

members but also on the willingness of leaders to call for adherence to the rules and permit exceptions only if exceptional circumstances warrant. We believe that expectations will shift as a result of changes in procedure, so that enforcing rules will not be very difficult. To be wholly successful these procedural changes must be accompanied by changes in legislative organization and responsibilities. It is to these fundamental matters we now turn.

CHAPTER III. STANDING COMMITTEES AND LEGISLATIVE PARTICIPATION

Improvements in scheduling and procedures provide the framework for a strengthened legislature. They hold out the promise of greater legislative efficiency. But increased legislative independence and participation necessitate far more. Human resources must be organized to ensure that the legislature play a significant part in deciding on state programs and policies and reviewing the performance of executive departments and agencies. How can 185 legislators best be organized to accomplish the job of the General Assembly?

To deal with this question we must make certain assumptions from the very outset. Each one of these assumptions is debatable, but each is necessary if our organizational suggestions are to be embedded in reality rather than in shifting images of what legislatures might be like.

The first assumption is that in the foreseeable future Maryland will be served by part-time rather than full-time legislators. Without analyzing the merits of citizen versus professional legislatures, we believe that neither the legislative workload nor the opinions of members and citizens alike demand the type of schedule the U.S. Congress follows.

The second assumption is that the General Assembly will

remain bicameral in the years ahead. Whether it should or not is certainly debatable. Those favoring a bicameral legislature argue that it prevents hasty and careless legislation, provides against control by special interest groups, and permits the use of a different basis of representation in the two houses. These arguments are not entirely convincing. Those favoring a unicameral legislature argue that a single chamber carries more prestige, attracts higher quality members, eliminates friction and rivalry between two houses, and so forth. These, too, leave considerable room for skepticism. Nebraska is the only state with a unicameral legislature. But, aside from some saving in salary payments to members, it is impossible to attribute the workings--good or bad--of the Nebraska legislature to the fact that it has one chamber instead of two.

Maryland's Constitutional Convention will decide the question. The Constitutional Convention Commission, it should be noted, split sharply--thirteen members favoring bicameralism and twelve favoring unicameralism. Reportedly, legislators serving on a Special Legislative Joint Committee to Cooperate with the Commission also were almost equally divided on this question (p.53).

We see no compelling reason to change the system of representation by converting from two houses to one. In this instance,

we heed the injunction: "Unless it is necessary to change, it is necessary not to change." In fact, adoption of unicameralism might be detrimental. If it were regarded as a panacea and diverted the legislature from coming to grips with immediate problems and making more important changes, then conversion to one house would be most unfortunate.

The third assumption is that for the next few years at least the sizes of the Senate and House of Delegates will remain the same. The issue of unicameralism is not very fashionable today. But the proper size of a legislative house arouses intense debate. In academic and reform circles, as well as among some legislators themselves, there is agreement that many state legislatures are too large. Their size, the argument goes, should be reduced. The most recent and dramatic expression of this view was by the Committee for Economic Development. It recommended that no legislature should have more than one hundred members.¹

In comparison with other state legislatures the General Assembly is large. Only one-fifth of the states have larger Houses;

¹Modernizing State Government (New York: CED, July 1967), p. 36.

only one-third have larger Senates. On a per capita basis as well, Maryland ranks high. But what difference does the difference between 185 and 140 or 100 members make? Although our survey did not specifically ask legislators to evaluate the size of the General Assembly, it is significant that not one respondent mentioned size as a problem in need of remedy. Moreover, subsequent interviews revealed that, with few exceptions, members did not think a Senate of 43 and a House of 142 unwieldy.² If numbers create a problem, it is in the conduct of committees, not in the House or Senate as a whole. For this there is another remedy, which we shall suggest below.

To repeat the turmoil of Maryland's recent reapportionment at this time would be demanding much. Moreover, a convincing argument can be made that insofar as practicable each county should have at least one representative. This situation prevails now, and there is no compelling reason to shift until reapportionment is again

²The House of Representatives consists of 435 members, the Senate of 100. Yet nearly all observers of Congress would agree that the House is in many ways the more efficient body. What happened is that because of its large size, the House developed techniques and procedures to ensure the efficient processing of legislation.

necessary. Then, it should be the responsibility of the General Assembly to decide the question of size, just as Congress has the power to decide the size of the House of Representatives. On this point, we agree with the Constitutional Convention Commission, which proposed that the number of members of each house of the General Assembly be determined by legislative enactment (Section 3.11).

We agree also with its explanation:

The optimum size of a house of elected representatives reflects a delicate balance between many factors, such as the size of the population represented, the number of divergent interests present in the electorate, the desirable number for effective debate in a deliberative body, and others. The balance between such factors changes over a period of time and the legislature should have the power to adjust the size of each house accordingly (p. 65).

It should be noted, however, that even if the number of legislators is reduced, it would still be possible to adapt our proposals to a General Assembly which is considerably smaller than the present one.

On the basis of these assumptions--that the General Assembly will remain a citizen legislature with one house of about 143 and another of about 42 members--we may turn, in this chapter and the next, to fundamental questions of organization and responsibility.

The first group deals with committees, and how they might function better during the session and the interim. The second group deals with staff and leadership, and how they might be strengthened as part of the improvement of the legislative process in Maryland.

The Committee System

For the legislature to be an equal partner in the determination of state policies and programs, strong standing committees are essential. The vitality of any legislature depends largely on the effectiveness of its committee systems. Thorough consideration of each bill by an entire house is impossible. Committees are needed to screen, modify, and recommend proposals. With legislation becoming increasingly complex, its consideration demands a measure of expertness by those who do the screening. Committees are needed for the degree of specialization they permit. A division of labor and specialization, in almost any enterprise, contribute both to the member's and to the organization's effectiveness.

Thus, the tasks of the committee generally are, and indeed should be, the same as the tasks of the legislature. They are responsible for advising their respective houses on the formulation of state policy, the funding of state programs, and how the executive branch is implementing legislative mandates.

There can be no doubt about the critical role of standing committees in the Maryland General Assembly. One indication is that members tend to devote most of their time during sessions to the business of committees on which they serve. In our survey, members were asked how they divided up their time. One-quarter said they spent equal amounts on committee work, legislation, and constituents. Only one-sixth spend less time on committee affairs. A clear majority, 61 percent, devote the bulk of their time to committee business. Another indication of the importance of committees is that members, when asked to assess their performance, overwhelmingly rated them as very effective. Almost 75 percent felt this way, while only a few thought they were not very effective at all. Finally, legislators depend on committees more than any other source for information and advice before they reach decisions on legislative proposals. As Table 5 shows, committees are mentioned as very important sources by many more legislators than are the Legislative Council, executive departments, the governor, or one's friends in the legislature. More than eight out of ten leaders and non-leaders alike rely on standing committees for information and advice.

Still, committees can be made more effective instruments of

TABLE 5. EVALUATIONS OF SOURCES OF
LEGISLATIVE INFORMATION AND ADVICE

Percentages Describing Source as Very Important*

Sources of Information and Advice	House (N=45)	Senate (N=14)	Leader (N=19)	Non- Leader (N=40)	Total (N=59)
Committees	84	79	83	83	83
Legislative Council	53	50	58	50	53
Friends in Legislature	41	36	33	43	40
Executive Departments	33	21	28	31	30
Governor	16	46	33	18	23

*Others include those describing sources as not very important and only somewhat important.

the General Assembly. Today, their potential is not fully realized, and consequently the performance of the legislature is not what it ought to be.

The Organization of Legislative Work: Sessions

Among the most common proposals on legislative reform are recommendations for strong committees. The American Assembly, for example, calls for

...standing committees, few in number, with broad well-defined jurisdictions. Committees in both chambers of two-house legislatures should have parallel jurisdictions to permit joint hearings. The committees should, as far as possible, reflect the major functions of state government.³

What this would mean in practice, however, is a far more complicated matter. The number, size, jurisdiction, and parallelism of committees are all interrelated. A change in one factor inevitably results in a change in another.

Committee Consolidation

The unequal distribution of legislative work among standing

³Final Report of the Twenty-Ninth American Assembly (1966), p.8.

committees has been a basic problem in the Maryland General Assembly.⁴ As Table 6 illustrates, for the years 1953 through 1966 the Senate Finance and Judicial Proceedings committees received almost 90 percent of bills referred, while the House Ways and Means and Judiciary committees received almost 80 percent. In the Senate proportionately more of a relatively small total membership served on one of these major committees. In the House, however, substantially fewer than half the total members were on the two committees which handled four-fifths of the legislature's work. The question is whether legislative work can be rather equally distributed among representatives.

⁴This problem is hardly unique to Maryland's legislature. To cite a few other examples: In New Jersey, for the period from 1948 to 1962, three of the twelve Senate and General Assembly standing committees received over 50 percent of all bills referred. Eagleton Institute of Politics, The New Jersey Legislature (New Brunswick, N.J.: Eagleton, Rutgers-The State University, November 15, 1963), p. 23; in Rhode Island, for the period 1964-66, three committees of the House and Senate handled about 90 percent of the total workload. Eagleton Institute of Politics, The Rhode Island Legislature, May, 1967, pp. 4-4 and 4-5.

TABLE 6. THE DISTRIBUTION OF COMMITTEE
WORK, SELECTED SESSIONS

		Percentage of Bills Referred to Standing Committee					
Major Committees of House and Senate		1953*	1955*	1957*	1963*	1966**	1967***
House	Judiciary	50.3	39.3	41.1	41.7	42.8	42.9
	Ways and Means	29.0	31.9	32.6	31.9	37.0	27.4
	Two-Committee Total	79.3	71.2	73.7	73.6	79.8	70.3
	Senate						
	Judicial Proceedings	63.1	48.6	54.1	45.6	52.9	35.1
	Finance	27.1	34.6	34.1	42.3	37.2	37.4
	Two-Committee Total	90.2	83.2	88.2	87.9	90.1	72.5

* Data provided by the Department of Legislative Reference and reported in George A. Bell and Jean E. Spencer, The Legislative Process in Maryland, second edition (College Park, Maryland, Bureau of Governmental Research, College of Business and Public Administration, University of Maryland, 1963), pp. 77-78.

** Citizens' Commission on the General Assembly Reports to the Legislature and the People of Maryland (January, 1967), p. 21.

*** Data furnished Eagleton by the Department of Legislative Reference.

One way to help achieve a more equitable distribution of the workload is by reducing the number of committees in a legislative house. For this and other reasons, nearly everyone favors the consolidation of standing committees. Indeed, the reduction in the number of committees in American state legislatures has been taking place, however gradually, during the past twenty years.

Between 1946 and 1965, the Council of State Governments reports, the median number of House standing committees in legislatures across the country had dropped from 39 to 21, and Senate committees had declined from 31 to 20.⁵ In Maryland, witnesses before the Wills Commission inevitably called for fewer standing committees, as one change among others they endorsed. Senator Joseph Tydings suggested six committees in each house; Governor Tawes advocated a reduction to four or five; and members of the General Assembly who testified recommended a decrease as well.

During the past session, the two houses of the General Assembly did reduce the number of their standing committees. In the Senate, consolidation worked extremely well. From about thirteen committees with actual or potential responsibilities for legislation, the number was reduced to three:

⁵American State Legislatures (Chicago: The Council, 1967), p.27.

Economic Affairs	(13 members)
Finance	(16 members)
Judicial Proceedings	(13 members)

In the 1967 session, every senator with the exception of the President of the Senate, served on one of these three major committees. As Table 6 indicates, equitability of the committee workload improved as a result. Finance and Judicial Proceedings received only about 70 percent of the bills referred, while the new Economic Affairs Committee received almost 30 percent. Morale increased, since everyone regarded himself as a member of a first-class committee. Senators whom we interviewed in our survey and thereafter were almost unanimous in their belief that consolidation had a positive impact. As far as the number and size of standing committees are concerned, the Senate appears to be in excellent shape.

But there is need for further consolidation in the House. Despite efforts by the Speaker, the 1967 reorganization of committees was less than a complete success. From about thirteen committees with actual or potential responsibilities for legislation, the number was reduced to nine:

Alcoholic Beverages	(23 members)
Banking and Insurance	(27 members)

Judiciary	(33 members)
Labor	(21 members)
Motor Vehicles	(24 members)
Metropolitan Affairs	(28 members)
Ways and Means	(33 members)
Natural Resources	(28 members)
Science, Education and Welfare	(23 members)

This reduction did alter the distribution of work among committees, but not to a significant extent. Table 6 shows that in 1967 Ways and Means and Judiciary received a smaller percentage of bills referred than previously. Still, the other six committees among them had responsibility for only 30 percent of the total. Nor did the consolidation particularly impress members of the House, only one-third of whom believed that it made any real difference.

A continuing unequal distribution of work poses problems for the House. First, pressures are too great on the sixty-six legislators who serve on the two major committees. Second, and more important, the talents of another seventy-five members of the House are not being exploited to the fullest extent possible.

We do not claim that one-hundred percent of the members of any legislative body will be outstanding lawmakers, capable of

contributing to the formulation of legislation by a committee. But now the skills of many able men are not being used as they should be, and this is detrimental to legislator morale. Members need to be given serious work, for if they have a chance to contribute to the job of the legislature they will take advantage of it. As one stated: "Most of us are willing to work and try to become good legislators." Another member commented: "If you set a higher standard of performance, a lot of guys would surprise you by their response." A committee chairman said: "Give them a job, they do it." When members, and particularly newcomers, are judged to have little to offer and are assigned to committees which have little to do, they can be expected to lose interest quickly. Whatever their potential, it would not be surprising if they become drones as a result of sheer frustration.

From the standpoint of the House as a whole, this is hardly a profitable way to do business. Division of labor and member specialization through committee service are among the best means for improving legislative performance. In order to develop themselves as legislators, and indirectly strengthen the General Assembly, members must be trained on committees. This means that each delegate should have an assignment on an important committee. Presently, many serve on more than one legislation committee. In fact, sixty-one

members, or 43 percent are on two, and another seventeen, or 12 percent are on three. Of chairmen, more than half have two committee assignments. Despite overlapping memberships, fewer than half the members of the House are on the two committees that handle almost three-quarters of the legislation in the House.

We recommend further consolidation of House committees. At the moment, in addition to committees which have auxilliary responsibilities, five legislation committees would seem most appropriate. (In 1967, five of the nine legislation committees handled 90 percent of all bills in the House.) In addition to Judiciary and Ways and Means, whose jurisdictions would remain essentially the same, the following committees should be created out of those which already exist:

Economic Affairs, to deal with matters now considered by the committees on Alcoholic Beverages, Banking and Insurance, and Labor, as well as issues of commerce, industry, planning and economic development;

State Affairs, to deal with matters now considered by the committees on Motor Vehicles, Metropolitan Affairs, and Natural Resources, including issues pertaining to agriculture, public works, transportation, and housing;

Health, Education, and Welfare, to deal with matters now considered by the committee on Science, Education, and Welfare, including issues pertaining to elementary, secondary, and higher education, health and mental hygiene, public welfare and juvenile services.

Each member of the House, as is the case in the Senate, should serve on one of these committees. Since it is likely that Judiciary and Ways and Means will still continue to have somewhat greater responsibilities than the other three, we suggest the following memberships for each committee:

Judiciary	(35 members)
Ways and Means	(35 members)
Economic Affairs	(24 members)
State Affairs	(24 members)
Health, Education, and Welfare	(23 members)

As we shall see below, this type of organization will lend itself not only to broader-based participation, but also to the continuation of committee work between legislative sessions.

Subcommittees

If our suggestion is adopted, committee size certainly will

be no greater problem than it is now. In any case, subcommittees are an excellent means for deliberation by smaller groups, easing the workload of full committees and encouraging a more penetrating study of legislation. At the present time ad hoc subcommittees are frequently appointed by a number of committee chairmen in the Senate and House. The Senate Finance Committee has made use of subcommittees in marking up the budget bill. Senate Judicial Proceedings and Economic Affairs have also assigned legislation to subcommittees. In the House, hearings are held before the entire membership of the Judiciary Committee. Then subcommittees are given the job of drafting legislation, which is subsequently reviewed by the full committee.

We propose that committee chairmen develop standing subcommittees to consider legislation, and that the organization of these subcommittees be proposed to the House and Senate for their agreement.⁶ For example, the proposed Economic Affairs Committee of the House might have subcommittees specializing in the following areas: alcoholic beverages; commerce, labor, planning and economic

⁶In Chapter VI, we shall pay particular attention to subcommittees of Finance and Ways and Means.

development; and banking and insurance. On State Affairs, subcommittees might be constituted along these lines: agriculture and natural resources; metropolitan affairs; and public works and transportation. Health, Education, and Welfare might consist of subcommittees dealing with each of these major areas of the committee's jurisdiction. Depending upon the type of issue and the decision of the committee, a bill might be referred to subcommittee for hearings, or hearings might be held before the entire committee. On some bills, subcommittees would be given the job of drafting proposals; on a few, drafting would be the task of the full committee. In any case, all the members of a committee would have a chance to review and modify subcommittee proposals.⁷

Subcommittees and subcommittee chairmanships are matters which should be considered by chairmen and members of the legislation committees during the early days of the session, when the General Assembly is organizing and agendas are being formulated.

⁷One legislator points out that there is insufficient time for both subcommittees and full committees to go over the same ground. Our feeling is that with a longer session, interim work by committees, staffing, and increased specialization by legislators, time will be sufficient. The benefits of thorough scrutiny of legislation outweigh whatever disadvantages result from some duplication of effort.

Jurisdiction

The success of any committee system, however, depends on leadership. If work opportunities are to be more equitably distributed in the House, it is up to the Speaker to ensure that the referral of bills accords with general lines of committee jurisdiction. No consolidation or reorganization of committees will make the slightest difference unless jurisdictions are respected.

Members of the House and Senate, leaders and rank and file tend to agree that subject matter jurisdiction should be defined by legislative rule. Seven out of ten legislators feel this way. Nevertheless, few houses of American state legislatures specify committee jurisdictions in their rules. Of the eighty legislative bodies we surveyed, only Senates in California and Virginia, Houses in West Virginia, South Dakota, and South Carolina, and both chambers in Hawaii, Missouri, and Vermont denote in some detail committee jurisdictions. The rest list committees by name, but go no further in mentioning areas of legislative responsibility.

In our view, it is too early to specify committee jurisdictions in House and Senate rules. Changes in the organization of the executive branch, developments in workload and program evolution under a

reorganized committee system, and altered interim operations--all these possibilities suggest the likelihood of significant change during coming years. Present needs of the General Assembly can best be served by an immediate reorganization of House committees, continuing referral of bills by the presiding officer, and then, after such experience, later evaluation of detailed jurisdictional boundaries which may be incorporated into the rules.

The problem of jurisdiction inevitably brings up the question of whether a bill which would result in expenditures of state money should be referred to a substantive committee or to Ways and Means, or perhaps to both. Traditionally, all important legislation having fiscal implications has gone to a finance committee for consideration. This has helped to enfeeble other committees of the General Assembly. The problem is particularly acute in the House. The report of the Wills Commission documents what has occurred. During the 1966 session, of fifty-five bills dealing with education, only sixteen were initially referred to the Education Committee, while almost half were sent directly to Ways and Means. Some, after being reported favorably by Education, were rereferred to Ways and Means and never reported out (p.22).

Without doubt, bills appropriating substantial monies should

be evaluated by the Finance and Ways and Means Committees. Yet, if the three House committees we have proposed can play no part in evaluating major programs in their own areas, their job during the session will be virtually meaningless. Admittedly, there is no ideal solution. But, despite difficulties, some system of dual or joint referral seems best. Members of the legislature, who were interviewed in our survey, generally agree. More than two-thirds felt that bills should go first to substantive committees and then to the finance committees.

In reviewing the rules of forty legislatures, we found that almost half of the chambers specifically provide for dual referral. In Michigan, for instance, any bill reported from a committee, which requires an appropriation, must be referred to an appropriating committee for approval. After legislation is reported out of substantive committees in Ohio, those bills with fiscal implications are assigned to the appropriations committee of the house in which they originated. Similar procedures are followed in Oklahoma, South Dakota, Vermont, and Wisconsin, among other states.⁸

⁸Tax Foundation, State Expenditure Controls: An Evaluation (New York: The Foundation, 1965), p. 46.

To a large degree, we go along with the Wills Commission recommendation on this subject. Legislation authorizing new or substantially altered programs should be referred to a substantive committee for program evaluation and then to Finance or Ways and Means for decision on appropriations. Alternatively, some of these bills may be referred jointly at the very outset, so that both committees might consider the merits from their own perspectives.

If a bill has fiscal implications, it would be up to the presiding officer to decide whether it is to be initially referred to a substantive committee and then referred to finance or referred simultaneously both to finance and the appropriate substantive committee. Whatever the case, if the bill appropriates money or would result in expenditures by the state, a report by the Finance or Ways and Means committee should be required before floor action is taken.

Problems and Proposals

One problem a dual referral system raises is time. But, with pre-filing and the earlier introduction of department and agency bills, time should be sufficient for two committees in each house to review major proposals. Substantive committees could evaluate a good portion of these bills early in the session, during the three-

week recess we have already proposed (Recommendation 10). By the time the finance committees have completed their work on the budget, a number of appropriation bills and reports and recommendations from other committees would be ready for their attention.

There is another problem, at least in the House of Delegates. Now, it is said that the majority of the most able legislators serve on Judiciary and Ways and Means. Therefore, only these two committees are capable of handling major matters. Whether or not this is true, if our consolidation suggestions are followed, all five committees can have a core of able leadership and members. Nearly everyone agrees that there is sufficient quality in the House to provide leadership and effective work on committees, and especially enough to man five committees in some depth.

Another important problem should be mentioned. A dual referral system is likely to engender conflict. The perspectives of substantive and appropriation committees will necessarily differ. The former are more inclined to represent departments and groups who desire new and expanded programs. The latter are more inclined to view their major task as the protection of the state treasury.⁹ One legislative leader,

⁹This is certainly the case in the House of Representatives where the Appropriations Committee and authorizing committees constantly disagree over the proper amounts to be spent on federal programs. See, for example, Richard F. Fenno, Jr., The Power of the Purse (Boston: Little, Brown, 1966), and Harold P. Green and Alan Rosenthal, Government of the Atom (New York: Atherton, 1963).

for example, mentioned several bills that were referred first to a substantive committee and then to Ways and Means in the 1967 session. They were endorsed by the substantive committee, but Ways and Means refused to recommend the appropriation of funds. The result was conflict, with members of one committee resenting the action of those on the other. In our opinion, this type of conflict is almost inevitable. Presently, sharp battle does not characterize the legislative process in Maryland. Room still exists for struggle, without danger of upsetting the system. Conflict and eventual compromise between those committees which promote programs and those which guard the public purse can be healthy. If it is limited and channelled, it will strengthen, not weaken, the General Assembly.

Finally, there is the question of leadership and politics. A reduction in the number of House committees means fewer chairmanships. It is only human that members do not want to see their opportunities for leadership diminished. If House leaders are willing, however, consolidation is feasible. It was difficult in the Senate, but was accomplished nonetheless. Several Senators, who lost committee chairmanships, had grounds for dissatisfaction. But they realized what had to be done and took the change with good grace. The same may happen in the House, particularly since standing subcommittees will allow additional opportunities for leadership. Nine legislation

committees now provide nine members with chairmanships. With consolidation, full-committee and subcommittee chairmanships should enable twice that many legislators to exercise leadership on committees.

The strengthening of committees, we repeat, depends largely on the willingness of leaders to follow the spirit as well as the letter of our suggestions. The workload must be more equitably distributed, membership strength and ability must be allocated more evenly, and the most promising legislators must be appointed to committee and subcommittee chairmanships.

In sum, our recommendations for session organization of standing committees are that:

(14) Senate committees remain organizationally as they are now, with three major legislation committees (excluding from consideration auxiliary committees such as Rules, Entertainment, Executive Nominations, and the Joint Committee of Investigation), each to have a membership as indicated:

Finance	(16 members)
Judicial Proceedings	(13 members)
Economic Affairs	(13 members)

(15) As is presently the case, each member of the Senate serve on one, but no more than one, of these major legislative committees;

(16) House committees be consolidated, so that there are five major legislation committees (excluding from consideration auxiliary committees such as Joint Committee of Investigation, Rules, and Protocol and Entertainment), each to have a membership as indicated:

Ways and Means	(35 members)
Judiciary	(35 members)
Economic Affairs	(24 members)
State Affairs	(24 members)
Health, Education, and Welfare	(23 members)

(17) Each member of the House serve on one, but no more than one, of these major legislation committees;

(18) Chairmen and members of legislation committees establish subcommittees and designate subcommittee chairmen, to be consented to by the House or Senate during the early days of the session, or, in special cases, later on;

(19) At the discretion of the committee chairman, subcommittees be referred bills for study and recommendation to the full committee;

(20) Presiding officers of the House and Senate define, as nearly as possible, areas of responsibility and refer bills falling within these jurisdictions to appropriate legislation committees;

(21) Presiding officers of the House and Senate assign bills authorizing new or substantially altered programs to the substantive committees in whose jurisdiction they properly fall as well as to the Ways and Means and Finance Committees which must decide on appropriations;

(22) The General Assembly, through a proposed Joint Committee on Legislative Policy and Management, examine during the interim period of 1968 the possibility of incorporating into House and Senate rules provisions governing committee jurisdictions and the referral of bills with expenditure implications.

The Organization of Legislative Work: Interim

A period of three months out of each year is scarcely adequate time for committees to develop strength. Just when members are adjusting to working as a group in a particular area of concern, the session ends and the General Assembly is reorganized for the interim. In consequence, although standing committees are fairly effective in screening bills, they are far less so in terms of participation in the processes of policy initiation and checking and balancing the executive. We have already noted that few members of the General Assembly believe that legislative oversight is well performed. Here, the committees are at

fault. Only two out of five members feel that committee hearings serve to help the legislature keep track of programs being administered by the executive. Fewer than one-quarter think that committee investigations have done much good in legislative oversight of executive departments and agencies.

Present Performance

Since its establishment in 1939, the Legislative Council has carried the burden of work between sessions. Operating through a number of permanent and special committees, the Council has made a valuable contribution. At the present time it is composed of thirty members, all of whom serve on one of its three committees-- Budget and Finance, Economic Affairs, and Judiciary. In addition, there are a number of other committees, which are not composed of Council members. For example, committees on Taxation and Fiscal Matters, Prison Administration, Capital Budget, and Legislative Review all have been operating during the past several years.

As a rule these committees consider problems, formulate proposals, and recommend them to the Council. The Legislative Council then decides whether or not to introduce one of its committee's proposals as a Council bill in the forthcoming session of the General

Assembly. In 1966, the Council sponsored fifty-eight proposals of which thirty-seven were enacted, a batting average of 64 percent. In 1965, it had 67 percent enacted, in 1964 and 1963 approximately 75 percent.

Although the system might at first appear to work well, there are serious defects. In 1967 there were twenty-seven different committees or subcommittees operating in the interim, with many legislators serving on two or more groups at the same time. On the average these groups met about once a month. Some, of course, met more frequently, and a number hardly met at all. With the exception of Taxation and Fiscal Matters and some of the other committees, few of the Council groups function very effectively. Overall, staffing is inadequate. A number of these committees are deluged with all sorts of bills, many of which are trivial. The Council has become, in the words of several legislators, a "dumping ground" for proposals that standing committees do not wish to handle. Originally intended to be an innovative agency of the legislature, it no longer fulfills this ambitious purpose. In fact, as our survey of legislator opinion found, fewer than half the members of the House and only slightly more than one-third the members of the Senate thought it very effective, whereas three-quarters of the members of the legislature considered standing committees to be very effective.

Joint Interim Committees

Without doubt, interim work by the General Assembly must be improved. Nearly every legislator interviewed (93 percent) favored an increase of work between sessions. Simply stated, the question is whether interim work can better be performed by committees of the Legislative Council or by standing committees. We unequivocally recommend that the Legislative Council, as it now exists, be abolished and that committees of the House and Senate be responsible for work between sessions as they are during sessions.

At the present time, few state legislatures have committees which operate on a continuing basis. At least two thirds are similar to Maryland, relying on Council or Council-type agencies when their legislatures are not meeting. California, with standing committees operating continuously, is a notable exception. New York employs joint legislative committees in the off-months, although with somewhat mixed results. The Illinois General Assembly is now considering a proposal for joint interim committees. In Washington, a similar proposal was made by the Joint Interim Committee on Facilities and Operations. The Wisconsin legislature also is debating the advantages of committee work throughout the entire year. There is no reason why Maryland should not be in the vanguard of states which encourage

committees to do the job that a strong legislature undeniably needs done.

In Maryland, there is general agreement that committees should be active during interim periods. A number of witnesses testified to this effect in hearings conducted by the Wills Commission. The Commission itself recommended that standing committees be required to function on a year-round basis (p.26). Our survey asked legislators to indicate whether they thought that interim work should be performed by the Legislative Council and its own committees (as presently), by joint committees, by separate standing committees, or by both the Council and legislative standing committees. The results are shown in Table 7. Although, there are differences of opinion on the best method of accomplishing interim study, it is notable that only 15 percent wish to continue the present system, while 85 percent advocate one change or another. From a contrasting perspective, almost 40 percent consider work by the Legislative Council and its committees to be the least preferred way of operating during the interim. We might expect that legislative leaders, most of whom head or serve on Council committees, would be more supportive of present arrangements. However, only 19 percent support the status quo, while roughly one-third advocate joint committees and the rest divide their preferences between separate standing committees and some combination of the Council and standing committees.

TABLE 7. MOST AND LEAST PREFERRED METHODS
FOR PERFORMANCE OF INTERIM WORK

Methods for Interim Performance	Percentages Selecting Methods as:	
	Most Preferred (N=59)	Least Preferred (N=59)
Legislative Council and its own committees	15	38
Joint committees of House and Senate	23	30
Standing committees of House and Senate	28	16
Both Legislative Council and standing committees	<u>34</u>	<u>16</u>
Total	100	100

The Constitutional Convention Commission evidently recognizes the possibility of committees operating on a continuous basis. In Section 3.13 of its report it recommends that each house "...may permit its committees to meet between sessions of the General Assembly." Its comment explains that, although the Legislative Council is presently intended to carry out detailed study and to prepare legislation, "the inclusion of the recommended provision in this draft section would give the General Assembly the authority to continue its regular organization between sessions to discharge these duties" (p. 67). We unqualifiedly support this proposal, but suggest that the General Assembly already has the constitutional power to enable committees to function when the legislature is not in session.

We suggest the following arrangement for the most successful achievement of interim work. There should be three joint committees which meet and conduct business during the interim. For a number of reasons, joint committees are preferable to separate standing committees of the House and Senate. First, they continue one of the most desirable features of the Legislative Council by permitting senators and delegates to serve together. Second, they provide for coordination and continuity from interim to session, since senators and delegates will explore problems between sessions that they will later confront when the standing

committees of each house begin their work. Third, they make for more efficient use of legislative time, since committees controlling particular jurisdictions will not be proceeding along different lines or in different directions, or duplicating the work of one another. Fourth, they permit limited legislative staff resources to be used most economically, since staff will be relatively concentrated rather than dispersed.

The three joint committees would parallel the present committees of the Legislative Council, but members would be selected specifically from certain standing committees of the House and Senate. On the assumption that House committees are consolidated (Recommendation 16), memberships on the joint committees would be drawn from standing committees in the manner indicated by Figure 1. The Joint Committee on Finance would be composed of twenty-one members of House Ways and Means and eleven of Senate Finance. The Joint Committee on Judiciary would draw twenty-one members from the House and eleven from the Senate committee. Finally, the Joint Committee on Economic and Social Affairs would have eleven members from Senate Economic Affairs and eleven from each of the House committees with parallel jurisdictions.¹⁰

¹⁰Even if our House consolidation proposal were not acceptable, it would still be possible to organize joint interim committees in the manner suggested above. The same approximate ratios could be observed. The major difference would be that House members of Joint Economic and Social Affairs would be drawn from Alcoholic Beverages, Banking and Insurance, Labor, Motor Vehicles, Metropolitan Affairs, Natural Resources, and Science, Education and Welfare instead of only three committees.

FIGURE 1. PROPOSED COMPOSITION OF
JOINT INTERIM COMMITTEES

Senate Legislation Committees Proposed Membership	Joint Interim Committees			House Legislation Committees Proposed Membership	
	Senate Membership	Total	House Membership	Proposed Membership	
Finance		Joint Committee on Finance		Ways and Means	
16-----	11	32	21	-----35	
Judicial Proceedings		Joint Committee on Judiciary		Judiciary	
13-----	11	32	21	-----35	
Economic Affairs		Joint Committee on Economic & Social Affairs		Economic Affairs; State Affairs; Health, Education, & Welfare	
13-----	11	44	33	-----71	
			(11)-----	(Economic Affairs)	
			(11)-----	(24)	
			(11)-----	(State Affairs)	
			(11)-----	(24)	
			(11)-----	(Health, Education, & Welfare)	
			(11)-----	(23)	
Total Joint Interim Committee Membership	42	33	108	75	141

During the 1967 interim, 127 members of the General Assembly are serving on groups of one kind or another. These include the Committee on Tourism, the Commission on Intergovernmental Cooperation, the Joint Legislative-Executive Commission on Taxation and Fiscal Problems, the Joint Legislative Committee on the Executive Current Expense Budget, and the Legislative Liaison Committee for the Constitutional Convention. About half the members are on one group only, but the rest have two, three, or even more interim assignments. Many are on committees or subcommittees that meet infrequently and have little work assigned them. Perhaps half are on major committees.

If our proposal were adopted, approximately six out of ten legislators would serve on one joint committee or another. Almost four-fifths of the senators and over half the delegates would be members of a major interim committee and one, or at the most two, of its subcommittees. The remaining members of the legislature would then be available to receive special appointments to consider matters which did not come within the purview of any one of the three joint committees. These might include studies of a broad nature as well as problems of legislative organization and procedures.

Organizational Requirements

These proposed joint committees are larger in size than those groups which now exist. However, most of their interim work could

be accomplished by subcommittees responsible for review and drafting of legislative proposals and oversight studies of executive performance. The Joint Finance Committee, for instance, might operate through three subcommittees--one on the budget, another on the capital budget, and a third on taxation and fiscal matters. The largest joint committee--Economic and Social Affairs--might best be broken into three subcommittees, each with three or four senators and ten or eleven delegates. These subcommittees would parallel the jurisdictional domains of the proposed House committees on Economic Affairs, State Affairs, and Health, Education, and Welfare.

House representation on the joint interim committees, although proportionately less in terms of the chamber's size, would be greater than that of the Senate. In other words, delegates would outnumber senators approximately two-to-one or in the case of the Joint Committee on Social and Economic Affairs, three-to-one (see Figure 1). Traditionally, Council committees have been composed of approximately equal numbers of senators and delegates. This has meant that senators generally had overlapping assignments. In view of the fact that the House is three times as large as the Senate, we do not think this tradition should be continued. There must be opportunities for more delegates to participate during the interim and bring their learning and

experience to bear as their committees deliberate during the session.

Nor should disparate representation on joint committees create a problem in reaching decisions. Seldom do issues before the General Assembly find one house aligned against the other. In any case, we propose that joint committee decisions be by vote of each chamber's membership unit, the procedure followed by joint conference committees of the Congress. Thus, a majority of delegates and a majority of senators would have to reach agreement before a proposal were adopted by a joint interim committee. This would mean, moreover, that any measure supported by a majority of members from each house would have an excellent chance of approval when it was later considered by standing committees of the House and Senate during the course of the legislative session.

Chairmanships should pose no problem either. We suggest that these positions rotate annually, or biennially, between the houses. For example, one year the chairman of House Ways and Means would preside over the Joint Interim Committee on Finance, while the chairman of Senate Finance would serve as vice-chairman. The next year, their positions would be reversed. Subcommittee chairmanships should rotate as well, so that combined chairmanships during any given period would be as nearly equal as practicable. In the case of Social and Economic

Affairs, special provision would have to be made for the selection of a chairman from one of the three (or more) House committees from whom members are drawn. We suggest that the Speaker of the House be responsible for this designation in those years when a delegate is to preside over the joint committee.

In general, we would endorse the following procedure with regard to the appointment of joint interim committees. Appointments should be made during the closing days of a legislative session. Chairmen of the Senate Committees on Finance, Judicial Proceedings, and Economic Affairs would appoint members to the three parallel interim committees with the advice and consent of the President of the Senate. On the House side, chairmen of Ways and Means and Judiciary would appoint members to the two parallel interim committees with the consent of the Speaker. Chairmen of Economic Affairs, State Affairs, and Health, Education, and Welfare would each appoint eleven members of their committees to the Joint Committee on Economic and Social Affairs, again with the consent of the Speaker. Vacancies would be filled in similar manner whenever they occurred.

The system we are proposing offers the advantage of greater continuity than exists now. Members, bills, and studies will all carry on from interim to session. What the Joint Interim Committee on

Judiciary accomplishes during the off-season will later bear fruit in work done by the judiciary committees of the two houses. Moreover, it will be more difficult for members of standing committees to simply refer sensitive proposals to interim groups since they themselves would comprise these groups. As one legislator noted, continuing standing committees would mean hot potatoes could not be thrown away, they could only be thrown back and forth.

The system we are proposing offers the advantage of greater coordination during the interim period. Presently the Legislative Council is deficient in coordinating the work of its various committees. There are simply too many separate groups. We envisage three major interim committees, each of which is responsible for the work of three or so subcommittees. In addition, we propose that overall management and coordination of interim work be the responsibility of the Joint Committee on Legislative Policy and Management (also referred to as the Joint Legislative Committee), a successor to the core membership of the Legislative Council. Since this Joint Committee should meet during the session as well and function in a broader capacity, we will consider it separately in the next chapter. For now, it need only be noted that the Joint Committee on Legislative Policy and Management will work to resolve interim problems, such as jurisdictional disputes, and suggest studies and measures which may be

undertaken by the three joint committees.

The system we are proposing offers flexibility at least equal to that provided by the Legislative Council. Although nearly all matters which arise should be acted upon by one or another of the three joint committees, on occasion the need for a special committee will arise. In such instances, the Joint Committee on Legislative Policy and Management would be responsible for appointing members of the special committee and defining its purpose. However, no member, with the exception of those serving on the Joint Legislative Committee, should have more than one interim committee assignment.

From time to time, there is reason for legislative participation on commissions made up of representatives of the executive branch and the public. In such instances, legislative appointments can be made by the Joint Committee on Legislative Policy and Management. For the most part, we believe that such joint endeavors should not be encouraged and certainly should not proliferate in a system of separated or shared powers. The Illinois Commission on the Organization of the General Assembly posed the problem of interim commissions forcefully when it wrote:

Precisely because such commissions are viewed as committee substitutes, legislative committees

are provided a rationale for minimizing their own participation in the process of policy development. Moreover, legislative members of interim commissions often have less influence over the actions of such commissions than do their public members...Mechanisms that help rationalize committee inactivity and that also permit legislators to be overshadowed in the development of policy recommendations do not, in our view, contribute to a healthy legislative institution.¹¹

Legislative committees, which are adequately staffed, should be able to draw upon the expertness and advice of executive officials without participating in joint ventures. Resources of citizens, whether generalists or experts, can also be tapped by legislative committees. As we shall suggest in a following chapter, consultants may be employed on an ad hoc basis when legislative staff is not qualified to carry out a highly specialized study. In addition, we propose that each joint committee, as well as the parallel standing committees of House and Senate, establish citizen advisory panels to draw upon for information and advice in their particular areas of concern. For example, an advisory panel composed of a number of educators, businessmen, bankers, doctors, planners, economic consultants,

¹¹Improving the State Legislature (Urbana, Illinois: University of Illinois Press, 1967), p. 59.

and so forth, might be formed by the Joint Committee on Economic and Social Affairs. Members would be called upon whenever the need occurred. During the session, the same panel could assist the Senate Economic Affairs Committee and the Economic Affairs, State Affairs, and Health, Education, and Welfare committees of the House.

What we have in mind is improved work by legislators during the interim. This necessitates not only organizational changes, such as the ones mentioned above, but increased time devoted by members and staff alike. It does not mean that legislators who are appointed to interim committees will have to spend full time on their jobs. But they will have to devote more time than they do now. Monthly meetings will probably not suffice, if significant work is to be accomplished. Full committees might meet only four or five times during the nine-month interim period. Shortly after the close of the legislative session, opening meetings should decide organizational questions and work assignments. Toward the end of the interim, full committee meetings should be held to review studies and proposals made by subcommittees. For most of the period, subcommittees would be the main work groups. They would operate in a close relationship with legislative staff and would meet as frequently as necessary.

Benefits and Proposals

Joint committees operating between legislative sessions have tremendous promise in the following respects:

They will be better able to design comprehensive legislation, substituting for executive initiative policy initiative by the legislature;

They will be better able to carry out the now neglected function of legislative oversight and review of the performance of departments and agencies, thereby keeping the executive establishment responsive and accountable and promoting rationality and efficiency in the administration of public policy;

They will provide greater continuity between the legislature's conduct of interim work and its activities during the session;

They will offer more meaningful opportunities for legislators to gain experience, training, and knowledge, all of which are essential if the legislature is to operate effectively during its limited annual session.

In short, joint interim committees appear to be the best means for the General Assembly to most effectively use member and staff resources in its job of formulating public policy and ensuring that policy is successfully executed. Therefore, we recommend that:

(23) The Legislative Council, as it now exists and as provided for in Article 40, Section 27 of the Code of Maryland, be abolished;

(24) The new Constitution include a provision, such as the one proposed by the Constitutional Convention Commission, providing that each house may permit its committees to meet between sessions of the General Assembly;

(25) Even before adoption of a new Constitution, the General Assembly establish three joint interim committees, each of which parallels and draws members from committees of the House and Senate;

(26) These three joint interim committees be organized in the following manner:

A Joint Committee on Finance, with 32 members, 21 from House Ways and Means, and 11 from Senate Finance;

A Joint Committee on Judiciary, with 32 members, 21 from House Judiciary and 11 from Senate Judicial Proceedings;

A Joint Committee on Economic and Social Affairs, with 44 members, 33 from House Economic Affairs, State Affairs, and Health, Education, and Welfare¹² and 11 from Senate Economic Affairs;

(27) Each joint interim committee establish standing subcommittees, which would conduct studies and draft proposals for review

¹²If consolidation is not carried out, these thirty-three members should be drawn from the present legislation committees of the House.

by the full committee;

(28) Joint interim committee decisions, which authorize investigations or adopt reports and proposed legislation, be contingent on agreement by majorities of both House and Senate members;

(29) Chairmanships and vice-chairmanships of joint interim committees rotate annually or biennially between the chairmen of House and Senate committees; subcommittee chairmanships rotate as well, so that combined chairmanships during any given period are divided between the houses as equally as practicable; and the Speaker of the House designate in alternate periods the chairman of the Joint Committee on Economic and Social Affairs;

(30) Appointments to joint interim committees be made by the chairmen of the relevant standing committees, with the advice and consent of the Speaker of the House or the President of the Senate;

(31) Special interim committees be established if circumstances so warrant, and their creation, membership, and responsibilities be within the authority of the Joint Committee on Legislative Policy and Management;

(32) Insofar as possible, no member, with the exception of those serving on the Joint Committee on Legislative Policy and Management, serve on more than one interim committee;

(33) Each joint interim committee establish an advisory panel, composed of public members, which can be drawn upon for information and advice;

(34) Joint interim committees meet in plenary session primarily to organize, make assignments, and deliberate on the work done by subcommittees, but subcommittees meet more frequently in order to accomplish the tasks assigned.

CHAPTER IV. COMMITTEE RESOURCES AND ACCOUNTABILITY

Reorganization of committees is a major step toward the strengthening of the Maryland General Assembly. But if reorganization is to fulfill its promise, other steps must also be taken. These should ensure that: (1) committees have access to the kind of expertness and specialized information they need in order to participate in policy-making and to perform their function of checking and balancing the executive; (2) committees adopt procedures which permit expertness and information to be used to best advantage; and (3) the increased knowledge of standing committees of the House and Senate and joint interim committees is not tightly held, but becomes available to the legislature as a whole. Finally, there should be a formal mechanism for coordinating committee operations, especially during the interim.

Committee Staffing

A strong legislature requires effective committees. Both depend upon competent committee staff. "The future of legislative assistance," the Citizens Conference on State Legislatures recently reported, "is closely related to the development of committee staffing." Moreover, the development of committee staffing may be contingent on procedural reforms, such as giving most standing committees interim status, reduction of the number

of committees, and greater use of joint committees.¹

If this is true, acceptance of our previous recommendations will surely facilitate advances in committee staffing. In the next chapter, we shall discuss legislative service agencies and how their staffs can best support committees and the legislature. For the moment, we are not concerned with centralized, professional staff. By committee staff, we mean people directly responsible to and working for individual committees of the General Assembly.

At the present time, only about one-third of state legislatures furnish committees the kind of assistance we have in mind. States such as California, Hawaii, Michigan, Minnesota, New York, Ohio, and Texas allocate funds to committees for staff assistance. In Maryland, there is widespread agreement that the committees of the General Assembly should be staffed. The Wills Commission recommended full-time, year-round staffing (p. 40). Nearly every legislator whom we interviewed advocated committee staff. In our survey of membership opinion, respondents were asked about their priorities in assigning additional staff to various groups and agencies of the legislature. Of seven possible choices

¹Calvin Clark, A Survey of Legislative Services in the Fifty States (Citizens Conference on State Legislatures, April, 1967), pp. 50-51.

(including leadership, county delegations, and individual legislators), almost half the legislators ranked committee staffing to be of highest priority. Two-thirds ranked it either first or second in priority status.

As a matter of fact, the General Assembly has already had some experience with committee staffing. In the 1967 session, the Senate Committees on Finance and Judicial Proceedings and the House Committees on Ways and Means and Judiciary were authorized to hire an analyst for the legislative session. For the most part, the experiment was quite successful. But a number of committee chairmen and members maintained that they still could use additional assistance.

We suggest that each major committee of the House and Senate be authorized to employ an administrative assistant, as well as a secretary, on a full-time basis throughout the entire year. This would enable the legislation committees--Finance, Judicial Proceedings, and Economic Affairs in the Senate and Ways and Means, Judiciary, Economic Affairs, State Affairs, and Health, Education, and Welfare in the House--to obtain the assistance they definitely need. During interim periods, professional and secretarial staff would be assigned to the proposed joint interim committees just as members are. For example, administrative assistants to Judicial Proceedings and Judiciary would serve the Joint Committee on Judiciary. These two staff men and

two secretaries could then assist both the full committee and its several subcommittees in their work.

In recommending committee staff, we do not preclude legislative service agencies from helping session and interim committees. What we anticipate is that committee staff will work most closely with chairmen, subcommittee chairmen, and members. Their specific responsibilities would be to: (1) suggest areas for committee study; (2) advise on policy alternatives to proposed programs; (3) help identify gaps in committee coverage; (4) point out the political implications of various courses of action; (5) pull together basic data on subject matter covered by bills; (6) digest and analyze bills; (7) help plan hearings, preparing the agenda, contacting potential witnesses, scheduling appearances, and analyzing testimony; (8) draft amendments to bills; and (9) prepare committee reports. In doing this, committee staff should be able to draw on more specialized, technical assistance located in the legislative service agencies. In short, the administrative assistant will serve mainly as an extension of the committee chairman. He must be responsible to the committee, primarily through the office of chairman. He must make sure that the committee or joint interim committee which he serves receives information most relevant to its concerns throughout the entire year.

The criteria for successful committee staffing are basically two: first, the administrative assistant must possess the trust and confidence of the committee, particularly the chairman; and second, he must be able to help the committee conduct its affairs and be generally familiar with the range of subject matter over which it has jurisdiction. The question is whether procedures can be devised which will ensure that competent personnel fill these positions.

Since the political as well as professional judgment of an administrative assistant is so important, to achieve responsive and effective staffing the power to appoint as well as dismiss must largely be in the hands of committee chairmen. Given the realities of practical politics, there is always the possibility that "no-show political hacks" will be appointed or that staff will be used for a chairman's personal legislative or political affairs rather than for committee purposes. There is no perfect way to guarantee that chairmen hire competent personnel and keep them at committee business. Yet, we do not regard these dangers to be great in the General Assembly today. As one chairman commented, "too much is at stake for chairmen to hire political cronies or hacks."

We suggest that the chairman nominate his administrative assistant, but that the nomination be reviewed by and final decision reside with the Joint Committee on Legislative Policy and Management. This leadership

group, which we shall discuss more fully below, will have ultimate responsibility for the performance of legislative staff. Moreover, it will be up to the Joint Legislative Committee to assess the experience and qualifications of the candidate for a committee staff position and determine an appropriate salary level. Naturally, if able committee staff are to be recruited, their salaries must be comparable to those paid professionals in the Department of Legislative Reference and the Bureau of Fiscal Research.

The advantages of screening and final decision by the Joint Legislative Committee are several. First, committee chairmen, if at all inclined, will be deterred from nominating unqualified people. It is one thing to quietly put one of the faithful on the payroll; it is quite another to justify it before leadership colleagues, not to mention members of one's own standing committee. Second, committee chairmen, if they need such protection, will be shielded from claims for patronage jobs made by political supporters in their districts. If a deserving constituent is not hired, then the responsibility is not entirely the chairman's, but rather that of his colleagues who have the authority to decide.

In California a similar system is used. The Rules Committee of the Assembly screens appointments proposed by chairmen and party

leaders alike. Although this procedure does not guarantee quality hiring, it encourages a spirit of professional competence and accurately conveys the idea that somebody cares and somebody is watching. The system works well, primarily because leaders and most committee chairmen want it to work.

In order that committees can begin to play a role in legislative innovation and more effectively check on executive performance, we recommend that:

(35) Each major committee of the House and Senate (including Finance, Judicial Proceedings, and Economic Affairs in the Senate and Ways and Means and Judiciary, as well as the proposed committees on Economic Affairs, State Affairs, and Health, Education, and Welfare in the House) be authorized to employ a qualified administrative assistant, as well as a secretary, on a full-time basis throughout the entire year;

(36) During interim periods, committee staff be assigned to the appropriate joint interim committee to assist in its work;

(37) The administrative assistant be responsible to the committee through the office of chairman;

(38) Chairmen of each major committee of the House and Senate nominate candidates for administrative assistant positions and nominations be reviewed and decided on by the Joint Committee on Legislative Policy and Management;

(39) The Joint Committee on Legislative Policy and Management determine appropriate salary levels--generally comparable to those of other professional staff of the legislature--for administrative assistants with varying qualifications and experience.

Committee Procedures

Effective operation of the committee system both during the session and the interim depends in part upon equitable and efficient committee procedures. Several improvements along these lines are particularly appropriate now.

Hearings

Most committee hearings are not as productive as they might be. Too much time is spent by witnesses reading prepared material, too little is used by members in preparation for and evaluation of the hearings. With the help of an administrative assistant and continuity of committees, these problems should diminish. Still, an effort should be made to have witnesses, particularly representatives of executive departments and agencies, submit prepared testimony in advance, summarize their statements at the hearings, and then submit to questioning by committee members.

Joint hearings is a proposal frequently advanced to enable committees to make more efficient use of time. The Wills Commission, for instance, makes such a recommendation (p. 29). Joint hearings may indeed save the

time of witnesses, especially officials of the executive branch, but they do not spare the time of committee members. Assuming that members are inclined to ask questions, the more who participate in any hearing, the longer the hearing will run. Still, advantages to the executive and public may be felt to outweigh inconvenience to committee members. We would not suggest hearings conducted jointly by full committees of the House and Senate, since the size of committees would create serious difficulties. However, subcommittees might profitably hold joint hearings whenever identical or similar bills are introduced in both houses.

Also, when legislation is introduced in only one house, the subcommittee which is delegated the task of handling it may invite members of a corresponding subcommittee in the other house to attend its hearing. When this is done, a subcommittee hearing on the bill may not be required in the second house.

Another suggestion concerns the proper announcement of committee hearings, which is so important to members of the legislature and public who wish to testify or attend. The Wills Commission recommends that advance notice of committee hearings be published and readily available, giving the time and place and subject matter of legislation to be considered (p. 29). Present rules of the House and Senate provide that:

The Department of Legislative Reference shall compile a list of the public hearings which are scheduled by the several standing and select committees, and from time to time shall distribute throughout the State House a public notice with a listing of the announced hearings which are of general interest (Rule 39).

In practice, it is up to individual chairmen to send out notices of hearings. On Fridays, the week before scheduled hearings, a list is mimeographed by Legislative Reference, picked up by the press, and printed in Monday's newspapers.

We suggest that in order that legislators and citizens receive adequate notice of hearings, announcements be made by Wednesday of the prior week. If our recommendations on a longer session, pre-filing, the earlier introduction of executive bills, committees working on a continuous basis, and staff are adopted, earlier scheduling of hearings should be quite manageable. Moreover, if the General Assembly makes use of the split-session technique, meeting for two weeks to organize and then recessing for three weeks to allow standing committees to work, there is little reason why agendas should not be prepared well in advance of most hearings. Admittedly, during the later stages of the legislative session it will be more difficult for chairmen to comply with a requirement that earlier notice be given. Nevertheless, the habit should definitely be encouraged.

Given a Wednesday deadline for the announcement of hearings, staff should routinely notify each member of the committee. It should also send notices to all persons whose names are listed as the authors of the bills to be considered, departments and organizations at whose request the bills were introduced, and any others who have expressed an interest to be notified of hearings on the particular bill.

Records and Reports

It is essential that information and recommendations by committees be available not only to committee members, but also to other members of the General Assembly and the public as well.

In the first place, there should be some record of committee activities, primarily to enable members and others to discover what actions were taken on similar matters in previous years. Moreover, some record of committee action on bills would help to clarify legislative intent and thereby facilitate interpretation of statutes by executive and judicial agencies.

The Wills Commission recommends that all committees keep a record of their activities (p. 28). About three-fifths of state legislatures, to one degree or another, maintain records of committee hearings and proceedings. Maryland legislators, who were interviewed in our survey, also cite the need for some record. Seven out of ten agree that minutes

of meetings and transcripts of hearings should be kept by each legislative committee.

On this point, it would seem wisest to give discretionary authority to the chairmen of the three legislation committees in the Senate and the five proposed in the House. On major bills, and at the discretion of the chairman, transcripts could be made of testimony at hearings.² Minutes of all meetings and hearings should be taken by a committee secretary, who would keep a record of persons appearing for and against each bill and all committee votes. Later on, perhaps, similar recording procedures might be followed by subcommittees during their session activities.

In the second place, members of the legislature should have available to them more adequate information on committee recommendations. At the present time, committees do not issue reports on bills they recommend either favorably or unfavorably to the House and Senate. According to rules of the two houses, after every meeting they do list each bill and their action thereon. Senate Rule 40 provides that each list be distributed

²One committee chairman has kept transcripts of hearings for the past several years. During this period, requests to review these transcripts have been few. It is predictable that an administrative assistant working for a committee will make far greater use of such transcripts to enlighten members as to previous testimony.

not only to the Secretary and President of the Senate, but to each member as well. House Rule 40 provides that they be distributed to the Chief Clerk, Journal Clerk and Speaker of the House, to the Department of Legislative Reference and to the press. A copy also is to be posted on the House bulletin board next to the Speaker's desk. It would seem that these lists should also be placed on the desks of members, as is the rule in the Senate.

Furthermore, committees should prepare brief reports on important bills, explaining their recommendations on amendments and presenting their arguments for or against passage. Ordinarily, the chairman in reporting a bill will explain his committee's action on the floor. But advance explanation and a permanent record, by way of a committee report, would be extremely helpful. Our survey found that more than twice as many members agreed than disagreed with the proposition that each committee should prepare brief reports. The problem heretofore has been lack of staff. If each legislation committee has the aid of an administrative assistant and secretary, it should be possible to compose a report comparable to those now prepared by the chairmen of the Senate Finance and House Ways and Means Committees on the budget bill.

Probably even more important than reports during the legislative session are reports of joint interim committees. At the present time, some

special committees of the Legislative Council prepare reports at the conclusion of their interim activities. This practice should be continued. Toward the end of the interim period, each joint committee should issue a report, including a description of the operations of subcommittees. These reports can go into far greater detail than committee reports on individual bills during the session. If the output of interim study is new legislation, the joint committee should present facts, a discussion of considerations necessitating particular legislation, recommendations, and a draft bill. If the output of interim study relates to legislative review of executive performance, the joint committee should describe the intent of the legislature in enacting specific programs, the success of the administration in achieving programmatic goals, and the need, if any, for further legislative action.³

Rules and Powers

In order that a majority of each committee and joint interim committee has the power to work its will after adequate deliberation, certain rules of procedure should be followed. While no one has reported abuses of the rights of the full membership of any committee, clear operating

³ In Chapters VI and VII, we shall pay additional attention to legislative review or oversight.

procedures should be formulated in the event that any abuse occurs. At this point, there is no reason for many specific rules of committee procedure to be included in House and Senate rules. Yet, overall rules should be adopted to provide that each standing committee and joint interim committee adopt its own set of rules, that a majority of members shall constitute a quorum, and that a majority of such quorum has the power to decide on measures before the committee.

One final point needs to be made. As the Wills Commission advises, legislative committees should have full investigative powers, including the right to subpoena witnesses and receive testimony under oath (p. 27). Now, the Legislative Council and the Joint Committee of Investigation possess such powers. If the General Assembly and its committees are given these powers, no purpose will be served by continuing the Joint Committee of Investigation, and we suggest that it be discontinued. In this regard, we endorse the recommendation of the Constitutional Convention Commission, which reads:

Each house may, by the affirmative vote of three-fifths of all its members, compel the attendance and testimony of witnesses and the production of records and papers either before the house as a whole or before any of its committees, provided that the rights and the records and papers of all witnesses, in such cases, shall have been protected by law (Section 3.13).

If the legislature possesses this power and committees can avail themselves of it, most likely it will never have to be used.

Proposals

On the matter of committee procedures, we recommend that:

(40) Committee hearings be improved by requesting witnesses, particularly those from the executive branch, to submit written testimony in advance;

(41) Subcommittees of House and Senate hold joint hearings whenever feasible;

(42) Announcements of hearings be made at an earlier date than presently and notification of interested individuals and groups be the responsibility of the committee;

(43) Committee chairmen have minutes of each meeting taken and, at their discretion, have transcripts made of testimony on major bills;

(44) The House amend Rule 40 to provide that lists prepared by committees on action taken at each meeting be distributed to all members of the House;

(45) Committees, operating during the session, prepare brief reports on significant bills, explaining their recommendations on amendments and presenting their arguments for or against passage;

(46) Committees, operating during the interim, prepare detailed reports on studies they have conducted and proposals for legislative action;

(47) The House and Senate adopt a rule requiring that each committee and joint interim committee adopt their own rules of procedure at the beginning of a legislative session or interim period, that a majority of members of each committee shall constitute a quorum, and that a majority of such quorum has the power to decide measures before the committee;

(48) Committees have full investigative powers, including the power to subpoena witnesses and receive testimony under oath, and the Joint Committee of Investigation be abolished.

Legislative Policy and Management

If the Legislative Council as it now exists is abolished and joint committees conduct the interim work of the General Assembly, a method must be devised to coordinate and manage a huge variety of legislative affairs. Now, interim leadership on matters of legislative policy is furnished by the Legislative Council. On matters of organization and procedure, including committee structure, rules, office space, employees, and pay scales, leadership is provided by the Joint Committee on Organization and Procedure. Moreover, throughout the year, there is always informal cooperation between the leaders of the two houses.

We feel, however, that a unified and continuing agency might provide the General Assembly even better policy and managerial leadership.

The Wills Commission recognizes the problem and suggests that the Legislative Council be strengthened and its responsibilities expanded (pp. 26-27). But, with standing committees operating on a continuous basis, the original intent of the Council no longer applies. Furthermore, one purpose of our committee proposals is to increase the continuity between interim and legislative session. One joint committee should function as the governing board of the General Assembly, responsible for overall management of legislative policy, organization, and procedures on a year-round basis. Obviously, this group could be called the "Legislative Council" or anything else. While acknowledging the value of an old label, we feel that a novel departure merits a new and descriptive title. Therefore, we propose the establishment of a Joint Committee on Legislative Policy and Management.⁴ This committee, which has been referred to on a number of earlier occasions (i.e. Recommendations 22, 31, 32, 38, 39), would replace the present

⁴ A similar proposal was recently advanced by the Illinois Commission on the Organization of the General Assembly. It recommended a Joint Rules Committee, consisting of leaders, to provide for the coordinated management of the legislative branch. Improving the State Legislature (Urbana, Illinois: University of Illinois Press, 1967), p. 22. A corresponding proposal is before the legislative leadership of Wisconsin. A number of its suggestions have been extremely helpful in developing this section of our report.

Legislative Council and the recently created Joint Committee on Organization and Procedure. In effect, the new committee would take on the tasks of both the Council and the Committee on Organization and Procedure. However, unlike the Council, it would not have the power to decide whether interim committee proposals are to be introduced as legislation. It could only review and offer advice.

Joint Committee on Legislative Policy and Management

We propose that legislation be enacted to provide for a Joint Legislative Committee to be composed of eight delegates and eight senators. Among Senate members will be ex officio, the President, Majority Leader, Minority Leader, the Chairman of the Finance Committee, and the Chairman of the Judicial Proceedings Committee. Additional members are to be appointed by the President. Among House members will be ex officio, the Speaker, Majority Leader, Minority Leader, the Chairman of the Ways and Means Committee, and the Chairman of the Judiciary Committee. Additional members are to be appointed by the Speaker. At the present time, the two majority leaders also qualify for membership by virtue of their committee chairmanships. Therefore, only four individuals from each house will be ex officio members. Four others will be chosen by the Speaker and four by the President of the Senate. At least two of the eight members from each chamber should be members of the minority party.

In alternate years or biennia, whichever seems more convenient, the Speaker of the House and President of the Senate would serve as chairman of the Joint Legislative Committee. When one is chairman, the other would be vice-chairman. The committee should organize during the opening days of each legislative session and should be required to meet at least ten times throughout the year. Minutes of each committee meeting could be taken and made available to members of the General Assembly as a matter of course, and to other persons on request.

As a corollary to this proposal, we suggest that the rules committee of each house be renamed the Committee on Rules, Procedure, and Organization and that each consist of the chamber's eight members on the Joint Committee on Legislative Policy and Management. Thus, the Senate committee would include the President, Majority Leader, Minority Leader, the Chairmen of Finance and Judicial Proceedings, and other members appointed by the President. The House committee would include the Speaker, Majority Leader, Minority Leader, the Chairmen of Ways and Means and Judiciary, and other members appointed by the Speaker. At least two members of each eight-man Committee on Rules, Procedure, and Organization would be from the minority party.

These committees will be responsible for those matters which are distinctly the business of one house. We have already suggested that

rules committees screen bills which are introduced after the cut-off date (Recommendation 6). They should also preside over matters of internal scheduling and any jurisdictional disputes between standing committees. In addition, they should be responsible for the efficient operation of the offices of the Clerk of the House and Secretary of the Senate and for housekeeping functions of the chamber.

The principal duties of legislative management should be conducted by the Joint Legislative Committee. Some of these duties have already been mentioned; others will be explained more fully in succeeding chapters. In sum, they are as follows:

- (1) Decide on nominations of administrative assistants made by committee chairmen and determine appropriate salary scales;

- (2) Decide on nominations of administrative assistants made by the Speaker and Minority Leader of the House and the President and Minority Leader of the Senate and determine appropriate salary scales;

- (3) Coordinate the operations of the two houses during the session, to assure proper timing and efficient work flow;

- (4) Control the style of bills and journals and the form of joint publications;

- (5) Review legislative organization, rules, and procedures, with the continuing intention of modernizing legislative operations;

(6) Explore possible applications of new technology, such as data processing, to the legislative process, and when deemed valuable make recommendation for their adoption;

(7) Exercise general supervision over a legislative internship program and annual orientation conferences for members of the General Assembly;

(8) Study and make recommendations on legislative working conditions, including matters such as member compensation, office space and facilities, and professional and secretarial assistance;

(9) Maintain continuing supervision, coordination, and support of work by joint interim committees, including:

the assignment of proposals and studies;

review of committee agenda and plans and their coordination;

approval of committee budgets, the employment of special consultants, consideration of the adequacy of staff and technical services available to the committee;

review of the nature of committee work, type of results, and timing of reports;

(10) Help develop a consistent set of legislative policy positions and a legislative program on the basis of studies conducted by standing committees and joint interim committees;

(11) Direct and supervise the Division of Legislative Services, including the bureaus of Legislative Reference, Fiscal Research, Policy Research, and Post Audit;

(12) Take the initiative in establishing statutes, rules, and procedures to govern the conduct of members, officers, and employees of the legislature;

(13) Prepare an annual report of its activities for submission to the General Assembly.

Staffing Legislative Leadership

Clearly, if the Joint Committee on Legislative Policy and Management is to ably perform these duties, continuously and thoroughly supervising the varied workings of the legislature, it must have staff assistance. Legislators, who are already confronted by huge demands on their time and energies, cannot be expected to take on these critical tasks unless they have extremely competent help. In our opinion, present staff is not sufficient to provide necessary support for the Joint Legislative Committee. We suggest that the Speaker and President each be authorized to nominate an administrative assistant who possesses outstanding qualifications. Their nominations would be reviewed and decided upon by the full committee, just as are nominations by chairmen of standing committees.

Each assistant would work throughout the entire year, not only

during the limited session. In addition to assisting leaders on matters pertaining largely to one house or the other, their main job would be to staff the Joint Committee on Legislative Policy and Management. In short, all of the duties of the committee would, by extension, also constitute the duties of the two administrative assistants. With the support of legislative service agencies, they would prepare whatever memoranda and studies are required by the committee. They would help set agenda, keep in touch with the operations of standing and joint committees, maintain surveillance of legislative services, and constantly bring to the committee's attention current and anticipated problems of legislative administration and management. In order to perform effectively, these staff assistants obviously would have to possess the continued confidence of the members, and especially the chairman and vice-chairman.

One other staff proposal can be noted here. The minority party in the General Assembly should have assistance. However small its membership, the legislative minority must have the capability to question the majority and suggest its own alternatives. Particularly when the executive and legislative branches are in the hands of the same political party, the opposition must have resources in order to make its views heard. One way to provide such assistance is by the assignment of

professional staff to the minority party of each major committee. This is what the Wills Commission recommends (p. 40). But resources are limited, able staff is not easily recruited, and the legislative minority party is still a fragment in Maryland. Moreover, partisanship does not appear to be a most significant issue in the legislature or the state.

We suggest instead that for the present the minority be staffed, not at the committee level, but centrally. The Minority Leader of each house should be authorized one administrative assistant now and perhaps another later on. These appointments would not have to be screened by the Joint Legislative Committee. These assistants would serve leaders and caucuses of the minority parties in the House and Senate. With the support of legislative service agencies, their job would be to assist the minority wherever assistance is necessary, in committee, caucus, or on the floor.

Proposals

To provide for continuing supervision and direction of the General Assembly, we recommend that:

(49) Legislation be enacted to establish a Joint Committee on Legislative Policy and Management, providing that:

(a) It be composed of eight members of the Senate and eight members of the House--to include ex officio from the Senate, the President, Majority Leader, Minority Leader, the chairmen of the Finance and Judicial Proceedings Committees, and additional members to be appointed by the President, and ex officio from the House, the Speaker, Majority Leader, Minority Leader, the chairmen of the Ways and Means and Judiciary Committees, and additional members to be appointed by the Speaker;

(b) Two members from the Senate and two from the House represent the minority party;

(c) In alternate years or biennia, the Speaker of the House and the President of the Senate preside as chairman, while the other serve as vice-chairman;

(d) The Committee organize during the opening days of the session and be required to meet at least ten times throughout the year;

(e) Minutes of each meeting be taken and distributed to all members of the General Assembly;

(f) Duties and responsibilities of the Committee include: decisions on the nominations of administrative assistants; coordination of the operation of the two houses during the legislative session; review of legislative organization, rules, procedures, working conditions and physical facilities; supervision, coordination, and support of work done

by joint interim committees; supervision of the Division of Legislative Services; and the development of policies to govern the conduct of members, officers, and employees of the legislature;

(g) The Committee report annually on its activities to the General Assembly;

(50) The Speaker of the House and President of the Senate each be authorized to employ, with the consent of the Joint Committee on Legislative Policy and Management, an administrative assistant, each of whom will serve primarily as staff to the Joint Legislative Committee;

(51) The Minority Leaders of the House and Senate each be authorized to appoint an administrative assistant to serve minority party leaders and members;

(52) House and Senate Rules be revised to provide that present rules committees be redesignated the committees on Rules, Procedure, and Organization and that each consist of eight members, all of whom are concurrently members of the Joint Committee on Legislative Policy and Management.

CHAPTER V. THE MANAGEMENT OF LEGISLATIVE INFORMATION

Few people dispute the axiom "knowledge is power." Not many would take issue with the assumption that strengthening a state legislature depends largely on increasing knowledge which it can use to do its job. Members of the Maryland General Assembly now have much information at their disposal--bills, interim reports, testimony in hearings, speeches on the floor, advice from groups and constituents, and prior legislative decisions. The problem is not the scarcity of information, but rather its relevance and usefulness to legislators. Some information poses little difficulty, and can be handled by legislators without assistance. Other information, to be most meaningful and useful to legislators, must be sorted and processed and brought to their attention at appropriate times.

There is, of course, no perfect way to accomplish this. Yet, notable improvements can be made. At the present time, relevant information is difficult to obtain, mainly because legislative staff and services are no match for the multiple and complex issues which confront the General Assembly. Inadequate staff and services were mentioned more than any other problem by legislators responding to our survey. To cite a particular difficulty--budget information, which we shall consider in detail in the next chapter, the Joint

Legislative Committee on the Executive Current Expense Budget (hereafter referred to as the Committee on the Executive Budget) described in a draft report of August, 1967 one chronic ailment of the budget process:

An almost total absence of staff memoranda with respect to significant policy questions, alternative courses of action, cost projections beyond the coming year, evaluation of current or proposed programs, estimates of the possible advantages and disadvantages in proffered Federal aid, or any other meaningful information that might have helped the committee members make intelligent and independent judgments about the major policy issues that are inherent in any state budget in any year.¹(p.1).

One approach to a solution is to provide additional staff and services. Presently, Maryland does not match other states in terms of supporting its legislators. If expenditures on professional staff and services are legitimate indicators--and we think they are-- Maryland compares quite unfavorably. Nor is this to simply say large states like California, New York, Massachusetts, Illinois, and Pennsylvania spend more. Many states smaller than Maryland--

¹"Report No. 1," August 25, 1967. Here and throughout page references to the report of the Committee on the Executive Budget will be included in parentheses when mention is made in our text.

Arizona, Colorado, Connecticut, Hawaii, Iowa, Kansas, Kentucky, Nevada, Oregon, Rhode Island, South Carolina, Utah, and Washington--outrank Maryland in terms of staff and service expenditures.²

Another approach is to modernize the organization of legislative staff and services and integrate them into the workings of the General Assembly. In this chapter, we shall offer suggestions along both lines, reserving major consideration of budget staff and information until later on.

The Organization of Professional Staff

Thus far our attention has focused on the structure and functions of session and interim committees. In discussing staff, we have suggested the appointment of administrative assistants to serve committees and leadership. One of their objectives would be to help legislators interpret and use information provided by legislative service agencies. They would help formulate and evaluate alternatives when members are confronted by two or several choices, which is almost always the case. They would have to make sense out of the buzzing confusion of information on state problems and policies.

²Our calculations are based on data reported in Calvin W. Clark, A Survey of Legislative Services in the Fifty States (Citizens Conference on State Legislatures, April, 1967).

But administrative assistants alone cannot accomplish the objective. Both they and members whom they serve need the support of specialists and technicians in the legislative branch. Bill drafting, basic research, background information, legal opinions, fiscal analysis--all should be provided by central legislative service agencies. These agencies must be responsive to the needs of legislative committees and members. They must be able to comply with legislative requests, satisfying demands for both quantity and quality. Finally, they must be accountable to the General Assembly for their performance.

Current Organization

Present organization of legislative services is at best illogical, at worst absurd. There are two agencies assisting the legislature, but in neither case is responsibility clear or accountability certain.

The Department of Legislative Reference, according to Article 40, Sections 48-53 of the Maryland Code, is a staff agency "for and solely responsible to "the General Assembly. Nevertheless, the head of the department is a hybrid five-member state board. It is composed of the President of the Senate and the Speaker of the House, but also the Chief Judge of the Court of Appeals, the president of The Johns Hopkins University, and the dean of the Law School of the University of

Maryland. The board no doubt exists to ensure that Legislative Reference keep out of politics. Its only real power is to appoint the department's director. Despite its responsibility to the legislature, Legislative Reference also has the duty to respond to the requests of others. Section 51 specifies that the director must investigate and report not only to any committee or member of the General Assembly but also to the governor and the head of any state department.

The Fiscal Research Bureau, part of the Department of Legislative Reference, is in practice a legislative agency. Yet Article 40, Section 54 of the Maryland Code provides that it must work not only for the legislature but also must assist any commission or committee as the governor so directs. The head of the bureau is appointed by the director of Legislative Reference.

As things now stand, diffuse responsibility and accountability lead to serious difficulties. First, the heads of the two service agencies are not given adequate direction by the General Assembly, since no one is entirely sure whose job it is. Second, coordination of legislative services is deficient, and as a result legislative needs go unmet. Third, necessary new services and improvements in old ones are adopted too slowly, if at all. Fourth, resources which properly should be devoted to legislative support

are demanded for other uses, too often to aid the executive branch.

There is no better illustration of the problem than the experience of the director of Fiscal Research spending much of his time during the last few years serving on tax commissions of the governor. First he helped formulate a program, which the governor presented to the legislature. Then he had to analyze the program and give impartial advice to members of the General Assembly. It was peculiar indeed to find a legislative employee testifying before legislative committees as a spokesman for a gubernatorial program. Surely, something is amiss when this can occur. More important, however, during this period the director's obligations to an executive commission diverted his attention from affairs of the Fiscal Research Bureau. With limited staff and huge demands, the bureau had substantial need of its director's leadership abilities. But since his energies were already being tapped to capacity, the bureau could not move in directions of budgetary and fiscal analysis he would have desired.

This is not meant as a criticism of present legislative staff, and particularly not of the director or staff of the Fiscal Research Bureau. There is no doubt that, given the circumstances, the bureau is doing an outstanding job. For example, four out of five legislators

who responded to our survey thought that Fiscal Research was a vital source of information. In fact, more members mentioned the bureau as important than any other group or agency providing legislators with information. The Fiscal Research Bureau could perform even better if its responsibilities were clarified and its staff slightly expanded, a point to which we shall return later on.

The Division of Legislative Services

As we assess the General Assembly's needs, legislative service agencies should be performing the following primary functions: policy research; fiscal analysis; budgetary review; oversight of executive performance; bill drafting; and legal counsel. Little in the way of policy research is currently being done. Bill drafting and legal counseling services could stand improvement. Fiscal analysis and budgetary review also can be improved. Both of the latter necessitate the legislature's controlling the post audit of governmental expenditures and performance. In view of these functions, and building insofar as possible on existing institutions, we suggest a reorganization of legislative services along the following lines.

Instead of a Legislative Reference Department, which includes the Fiscal Research Bureau, there should be four bureaus in a new Division or Department of Legislative Services. Legislation

amending present laws concerning Legislative Reference and Fiscal Research will have to be enacted to provide for the division to include: (1) a Bureau of Legislative Reference; (2) a Bureau of Policy Research; (3) a Bureau of Fiscal Research; and (4) a Bureau of Post Audit.³ Generally, the job of Legislative Reference would be similar to its present one, with a few additional responsibilities. Duties of Fiscal Research would be like ones already statutorily required. The post audit function would be transferred from the executive to the legislative branch. Policy Research, the one new agency, would furnish assistance and information to leaders, committees, and legislators on a continuing basis.

Each bureau should fall under the exclusive direction of the General Assembly and be held accountable to it through the Joint Committee on Legislative Policy and Management. No longer will legislative agencies be compelled to do the bidding of the governor. No longer will the possibility be great that legislative specialists are coopted by their counterparts in the executive branch. No longer will legislative staff operate without general supervision and direction.

The Joint Legislative Committee would have to make sure that the bureaus of the Division of Legislative Services had sufficient

³The first two bureaus we shall discuss below, the latter two in Chapter VII.

capability to satisfy the needs of the General Assembly. We believe that members of the committee would be approached by their legislator colleagues if services were not up to par. One task of administrative assistants would be to keep track of bureau performance and bring any problems or proposals for change to the attention of the committee. Furthermore, the director of each bureau should be required to report to the Joint Legislative Committee at regular periods, perhaps four times a year. This, of course, would not preclude more frequent contact between bureau chiefs and legislative leaders.

With the abolition of the State Board of Legislative Reference, appointments of bureau directors would be the prerogative of the Joint Committee on Legislative Policy and Management. To make doubly certain that appointees are the most qualified people selected on a nonpartisan basis, we suggest that an Advisory Panel on Legislative Management and Services be statutorily established. The principal duty of the Advisory Panel would be to help recruit and screen candidates for directorships and the position of state auditor. In filling any vacancy, the panel would present a list of three to five nominees, from which the Joint Committee on Legislative Policy and Management would be required to choose one. Tenure of bureau directors, however, would be solely at the pleasure of the committee.

Although the Advisory Panel's only statutory obligation would be to screen and nominate candidates for bureau director, it might also be called upon for suggestions and it might offer advice on a number of matters pertaining to legislative management and services. The panel could very usefully assess and make recommendations regarding improved staff performance, additional facilities, new managerial techniques, and so forth.

No member of the legislative or executive branch should serve on the Advisory Panel. Nor should specific members be statutorily designated, as is now done for the Board of Legislative Reference. Instead, appointments might be made quadrennially from among distinguished citizens in the state. Two members could be named by the President of the Senate, two by the Speaker of the House, and three by the governor. These seven members would elect their own chairman and by mutual agreement could fill any vacancies that occurred.

Only bureau directors should be responsible to and appointed or dismissed by the Joint Legislative Committee. Other professional staff in the four bureaus should be appointed by and responsible to the directors. Presently, secretarial staff is covered by a classified system, while all professional personnel are unclassified. In our

opinion, there is no necessity to provide tenure for professionals in the four bureaus. The system now works well, and tenure for those who merit it is fairly well assured.

The Committee on the Executive Budget has also proposed a reorganization of legislative services. In brief, the Committee suggests that the Bureau of Fiscal Research be detached from the Department of Legislative Reference and become the nucleus of an expanded fiscal staff. An audit staff would report directly to a newly created Joint Budget and Audit Committee. Two other groups--a budget analysis staff and a research staff--would be combined in a Department of Fiscal Services. As we understand the proposal, the budget analysis division would be responsible to the Budget and Audit Committee and the research division would service the Interim Committee on Taxation and Fiscal Matters as well as other such groups (p. 14).

We shall deal further with the Committee's excellent report in the following chapters. For the moment, we must voice a few words of caution. First, it is important not to overlook other legislative needs by providing only for fiscal analysis and research and servicing only fiscal committees. Second, it is important that legislative agencies, whatever their tasks, be accountable to the

General Assembly. We feel that each bureau or division be held accountable through a leadership committee such as the one we have proposed, rather than through a more narrowly constituted and focused joint or interim committee.⁴ Surely, an agency such as Fiscal Research will work most closely for the Finance and Ways and Means Committees and whatever interim groups study the budget and fiscal policy. No doubt, too, these staff agencies will be directed on a day-by-day basis by the committees for whom they work. But, like other bureaus or divisions, they must also be accountable to the legislature as a whole. This accountability, as well as proper coordination of all kinds of legislative services, can best be achieved if the Joint Committee on Legislative Policy and Management provides overall supervision.

Proposals

The most promising device to ensure effective control and coordination of legislative services is our proposed Joint Legislative Committee. On the one hand, control by individual committees can only lead to an uneconomical fragmentation of services and responsibility. On the other hand, control by a single administrative chief, although it might promote coordination, does not seem advisable now.

⁴The report of the Committee on the Executive Budget is not clear on the question of the accountability of the fiscal division during the course of a legislative session.

In the future, the legislature might seriously consider a single administrator, who would give direction to the various bureaus of the Division of Legislative Services and would answer to the Joint Legislative Committee. At the present time, we strongly urge the reorganization represented in Figure 2. This applies to channels of overall responsibility and not to particular working relationships, which we shall discuss subsequently.

Therefore, we recommend statutory revisions to provide that:

(53) All legislative service agencies and staff be responsible exclusively to the General Assembly, and not to the governor, department heads, or other boards;

(54) For the most effective assistance in policy research, fiscal analysis, budgetary review, oversight of executive performance, bill drafting, and legal counsel, a Division or Department of Legislative Services be established, and include the following agencies:

Bureau of Legislative Reference

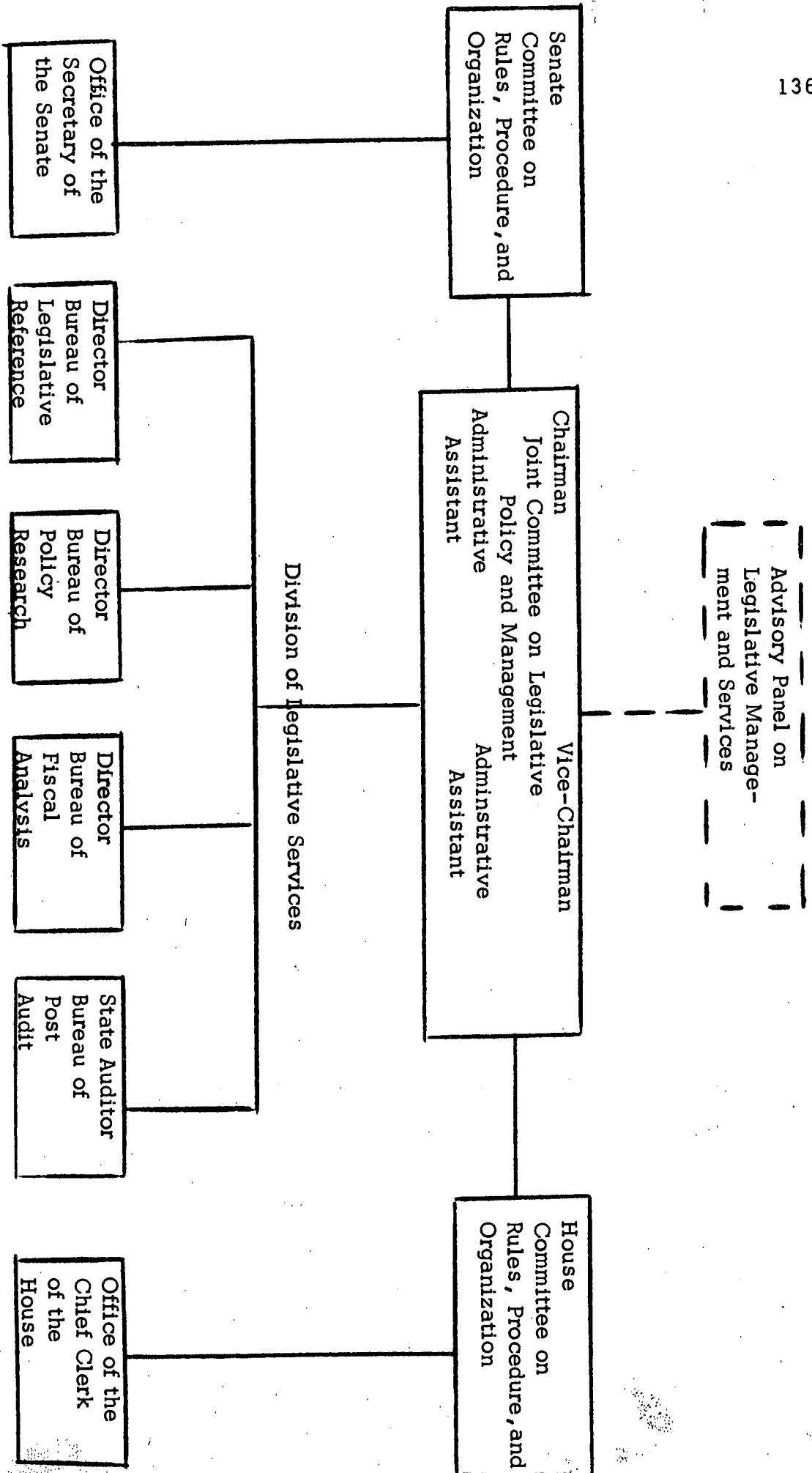
Bureau of Policy Research

Bureau of Fiscal Research

Bureau of Post Audit

(55) Each bureau be headed by a director, who shall be responsible to the General Assembly through the Joint Committee on Legislative Policy and Management and who shall report to the Joint Legislative Committee at least four times each year;

FIGURE 2. A REORGANIZATION OF LEGISLATIVE SERVICES



(56) There be established an Advisory Panel on Legislative Management and Services, to be composed of seven members appointed quadrennially--two to be appointed by the President of the Senate, two by the Speaker of the House, and three by the Governor, but not to include members of the legislative or executive branch;

(57) Whenever the directorship of a bureau of the Division of Legislative Services must be filled, the Advisory Panel will recommend a list of qualified candidates and the Joint Committee on Legislative Policy and Management will appoint one person from such list to the vacant position;

(58) Bureau directors have discretionary authority with regard to the selection, assignment, and retention of members of their own staffs.

Policy Research and Legislation Services

A frequent complaint of members of the General Assembly is that they sorely lack basic research. Neither committees nor individual legislators appear to receive the kinds of knowledge they need as a basis for sound legislative action. The overriding reason for this is clear. The legislature has insufficient professional staff to probe and dig, assess and make judgments, and command knowledge in specialized areas.

Discounting fiscal analysis, which we shall come to later, the research function is now the responsibility of the Department of Legislative Reference. With a small staff of five full-time and two part-time people, the department not only drafts bills, provides legal counseling, and summarizes bills and laws but also engages in spot and major research and staffs the Legislative Council during the interim period. As a matter of fact, during the legislative session practically all of the department's energies are spent on bill drafting and closely related services. During the interim its staff is spread exceedingly thin attempting to assist the numerous committees of the Legislative Council.

Given the meager resources devoted to research, it is foolish to imagine the job can be done adequately. If information collected by the Citizens Conference on State Legislatures is even roughly accurate, the Maryland situation assumes dramatic shape. With a comparatively small staff, the Department of Legislative Reference has to respond to approximately 10,000 requests per year. Many states with larger reference bureaus respond to fewer requests. On the basis of information provided by legislative research agencies, and where comparison seems feasible, we have calculated the number of requests per staff member for several states. As Table 8 shows, no legislative agency approaches the Maryland department in terms of workload.

TABLE 8. ANNUAL WORKLOAD OF LEGISLATIVE RESEARCH
AGENCIES IN SELECTED STATES

State	Name of Agency	Approximate Number of Requests Per Each Person Employed
Maryland	Department of Legislative Reference	1,600
Wisconsin	Legislative Reference Bureau	840
Pennsylvania	Legislative Reference Bureau	350
California	Assembly Legislative Reference Service	350
South Dakota	Legislative Research Council	300
Michigan	Legislative Service Bureau	275
Alabama	Legislative Reference Service	250
Illinois	Legislative Reference Bureau	170
Ohio	Legislative Reference Bureau	125
Virginia	Division of Statutory Research & Drafting	100
Minnesota	Legislative Research Committee	100
Missouri	Committee on Legislative Research	100
Hawaii	Legislative Reference Bureau	70
Indiana	Legislative Advisory Commission/ Legislative Bureau	60
Massachusetts	Legislative Research Bureau	50

Source: These calculations are based on 1965 data collected by the Citizens Conference on State Legislatures from directors of individual service agencies. They appear in Calvin W. Clark, A Survey of Legislative Services in the Fifty States, pp. 13-15.

Policy Research

Research is far too critical to the job of a legislature to be as ignored as it is now. Either Legislative Reference must be significantly expanded or a new bureau established to satisfy the General Assembly's research needs. We feel that even with some expansion, the existing department will have its hands full with bill drafting and related matters and keeping the House and Senate informed of the process of legislative deliberation. Moreover, the type of policy research we have in mind should be located elsewhere, although there naturally must be cooperation between a Bureau of Policy Research, Legislative Reference, Fiscal Analysis, and Post Audit.

The director of Policy Research obviously should have latitude in defining the tasks of his bureau. At the very least, however, a bureau composed at the outset of a director and four professionals will be able to provide valuable research support to committees. Each staff member could be responsible for a broad, but still specialized, area of research. Each could maintain close contact with a committee and its administrative assistant. One professional might concern himself with legal matters and be assigned to work for the two judiciary committees during the session and the Joint Committee on Judiciary during the interim. Three others might concern themselves with matters

involving the jurisdiction of the proposed House Committees on Economic Affairs, State Affairs, and Health, Education, and Welfare. They would support these house committees as well as the corresponding subcommittees of Senate Economic Affairs throughout the session. During the interim, these three members would do research for subcommittees of Joint Economic and Social Affairs. Together with committee administrative assistants and the more specialized legal staff of Legislative Reference, personnel of Policy Research will be able to complement current research activities of the Fiscal Research Bureau.

In addition to assisting committees in tasks of basic and applied research, the Bureau should respond to requests by individual legislators. Now, few members of the General Assembly can obtain assistance if they desire background materials for legislation they are planning to introduce. At the very least, certain basic materials, including information on similar problems and comparable bills being considered by Congress and other state legislatures, should be collected, summarized, and adapted to the uses of Maryland legislators. The director of the bureau would assign individual requests to personnel specializing in one of the four broad domains of legislative policy.

Finally, a research bureau might take initiative with regard to particular kinds of work. It could prepare abstracts and explanations

of executive agency reports and other state publications, so that members of the General Assembly would be able to be more selective in their choice of reading matter on subjects they wish to probe further. It could also prepare informational or research bulletins, when there is some indication of substantial member and public interest in a particular problem. Wisconsin's Legislative Reference Bureau, for example, during the past several years has issued brief research bulletins on subjects such as constitutional amendment proposals, constitutional revision in Wisconsin and other states, experience in filling legislative vacancies, and compensation for victims of crime.

Legislative Reference

If a Bureau of Policy Research takes on the aforementioned tasks, then Legislative Reference will be able to focus its attention on improvement and expansion of its present services. The major ones pertain to the introduction of legislation and the collection and distribution of basic information.

Bill Drafting and Analysis. Because of its multiple responsibilities and small staff, Legislative Reference has not been able to do the type of expert bill drafting which legislators expect and require. One reason for inadequacies here is that several draftsmen work on a

part-time basis, during the months of the session only. There is general agreement that attorneys should be employed the entire year, devoting their attention to drafting during the peak months of the session and to legal counseling during the interim period. With continuing service, each one would develop the kinds of legal skills which are required by the legislature.

Particularly if our recommendations on pre-filing, a longer legislative session, and a more rigidly enforced termination date for the introduction of bills are adopted, a staff of about seven full-time attorneys and a few clerical assistants should be able to accomplish a number of important objectives for the Bureau of Legislative Reference.

First, certain precepts should be scrupulously followed in bill drafting: equal service must be given all, regardless of political affiliation or length of service; work must be confidential, so that no information is revealed about what is being drafted or for whom it is being done; and drafts must be based on requests and carry out ideas of requestors, and not those of the drafters.⁵

Second, to reduce problems which arise from faulty drafting,

⁵This is adapted from precepts observed in Wisconsin. Report of the Committee on Legislative Organization and Procedure, The Wisconsin Study (Madison: Legislative Council, January, 1964), p. 17-1.

all bills introduced into the General Assembly should first be approved as to form by the Bureau of Legislative Reference.⁶

Third, although requests should be allowed to come into the bureau by telephone or mail as well as personal appearance of the requestor, a record should be kept of all of them. Basic information in this record should include: date received, date desired, subject, sponsor or source, the method by which instructions were submitted, the nature of instructions, and the name of the staff member receiving the request.

Fourth, all bills and important resolutions which are introduced should be accompanied by a brief analysis prepared by the bureau. Admittedly, if such a synopsis or explanation were provided, members might not read the bills themselves. However, it is extremely doubtful that members have the time to read many bills now. In our opinion, brief analyses would be used by legislators. Moreover, they would not deter members who are especially interested from studying bills more closely. This procedure is already followed in several states, where the same attorney who drafts the bill writes an analysis in

⁶See Illinois Commission on the Organization of the General Assembly, Improving the State Legislature (Urbana, Illinois: University of Illinois Press, 1967), p. 28. This proposal was recently adopted in Illinois.

plain language. The analysis is submitted to the requestor at the same time the bill draft is submitted. This gives him a double check to ensure that the draft accomplishes what he intends. It also helps all members of the legislature and others who are interested in the subject to be kept informed.⁷

Fifth, bureau personnel should assist committees and their administrative assistants in drafting amendments to legislation before bills are reported to the floor.

Sixth, the bureau should be able to provide legal counsel to the House and Senate, rendering advisory opinions with regard to parliamentary points and the constitutionality or other legal implications of legislation under scrutiny.

Seventh, when the drafting load diminishes, bureau staff should focus increased attention on statutory and code revision.⁸ Presently, the bulk of revision is left to special commissions which

⁷ A similar proposal was advanced by the Illinois Commission on the Organization of the General Assembly, ibid., p. 29, and was adopted in 1967.

⁸ Now, 46 legislative agencies in 39 states perform some type of revision. Of these, 29 conduct revisory activities on a continuous basis. Clark, A Survey of Legislative Services, pp. 29-36.

revise particular articles of the code. Without additional staff, substantive revision would be impossible. But, with present facilities, the bureau should be able to begin work on bulk revision of a corrective or formal nature. The purposes would be to determine what statutes are in effect, organize law into a logical classification system, restate it in clear and simple language, and establish a convenient and flexible numbering system. Even if a full-scale effort is not possible in Maryland, the legal staff of Legislative Reference can work to clean up minor details and inconsistencies and point out principal areas in need of corrective revision to the General Assembly and its appropriate committees.

Eighth, particularly during the interim but during the session as well, Legislative Reference staff should provide legal assistance to committees. We anticipate that most substantive questions can be adequately handled by the Bureau of Policy Research. But the Judiciary committees, for instance, will undoubtedly require specialized help from the legislature's legal staff. Furthermore, when joint committees are drafting legislative proposals which result from their interim investigations there will be particular need for the kind of help Legislative Reference should be able to furnish.

The Progress of Legislation. Another significant function of

Legislative Reference is to keep legislators and other interested parties informed of the progress of legislation. The job here probably warrants improvement, since nearly every single legislator interviewed in our survey felt that better reporting devices were essential.

We have already suggested that a brief analysis be prepared for each bill drafted. At the present time, Legislative Reference mimeographs a daily digest of bills introduced, a procedure similar but not identical to the one we propose. The problem, however, is that the digest is difficult to use. It is neither indexed nor cross-referenced and it is not cumulative. We feel that a biweekly index would be far more valuable than such a digest. Beginning after the third week of the session, the bureau might compile and publish a legislative progress reporter. This would include a list of bills introduced, cross-referenced by sponsor, subject, and bill number, with a cumulative record of committee and floor action. The final issue of the reporter would summarize legislative action for the entire session.

Especially if interim work by committees is intensified, there should be some way to keep members of the General Assembly and others informed of what studies are being undertaken. We suggest that Legislative Reference prepare a newsletter at monthly intervals

during the interim period. It should contain brief reports of committee action and operations by the Joint Committee on Legislative Policy and Management. It might also include items of current interest to legislators and notices of materials being prepared by legislative service agencies.

Proposals

In order to improve research and other services rendered the General Assembly, we recommend that:

(59) A Bureau of Policy Research, staffed by a director and four professionals, perform the following duties:

(a) Provide specialized research assistance to the House Judiciary Committee, the proposed House Committees on Economic Affairs, State Affairs, and Health, Education, and Welfare, the Senate Judicial Proceedings Committee and the Senate Economic Affairs Committee;

(b) Provide specialized research assistance to the proposed Joint Interim Committee on Judiciary and the Joint Interim Committee on Economic and Social Affairs;

(c) Respond to research requests made by individual legislators;

(d) Prepare abstracts and explanations of executive

agency reports and other state publications as well as occasional informational or research bulletins;

(60) A Bureau of Legislative Reference, consisting of a director, about seven full-time attorneys, and a few clerical assistants, perform the following duties:

(a) Draft bills in accord with the precepts that equal service be given all legislators, work is kept confidential, and all drafts faithfully carry out the ideas of the requestors;

(b) Approve the form of all bills introduced into the General Assembly;

(c) Maintain a record of drafting requests and instructions given by the requestor;

(d) Prepare a brief analysis to accompany all bills and important resolutions drafted;

(e) Assist all committees in drafting amendments to legislation under their scrutiny;

(f) Provide legal counsel and advisory opinions on parliamentary points and the constitutionality or other legal implications of legislation;

(g) Begin a preliminary program of statutory and code revision, particularly to suggest formal improvements and point

out areas in greatest need of corrective revision;

(h) Provide legal assistance to committees, especially to the standing judiciary committees and the proposed Joint Interim Committee on Judiciary;

(i) Prepare and distribute, after the third week of the legislative session, a biweekly progress reporter containing a cross-referenced record of introduced bills and legislative action;

(j) Prepare a monthly newsletter for distribution during the interim period, containing brief reports of interim committee action.

Additional Sources of Information

There are numerous other ways to facilitate the flow of relevant information to members of the General Assembly. If our above-mentioned recommendations are followed, we are confident that directors and staff of legislative service bureaus will be able to develop methods and devices to accomplish this purpose. However, several matters do not fall within the specific purview of any single service agency. They merit the attention of the legislature and legislative leadership.

Orientation Programs and Materials

Few things are as difficult for freshman legislators as

learning the game--becoming quickly familiar with the organization, methods, and procedures of both the legislative and executive branches of government.⁹ The problem is to learn the ways in which legislative business is handled, how departments and agencies work, where to go for what kinds of help, and how to get things done effectively and efficiently. Basic orientation to the legislative environment and legislative tasks takes some years for even the most assiduous student. Given the high turnover among state legislators after each general election, the orientation problem assumes major proportions with periodic regularity.

New members become acquainted in various ways, ranging from informal conversations with legislator friends to discussions with legislative leaders. One method intended to speed the learning process and make the start of a legislative career easier is the orientation program. In recent years, more and more states have

⁹Political science literature demonstrates the difficulties legislators encounter in trying to learn the ropes. See, for example, Charles L. Clapp, The Congressman (Washington, D.C.: The Brookings Institution, 1963), John C. Wahlke, et al., The Legislative System (New York: Wiley, 1962), and James David Barber, The Lawmakers (New Haven: Yale University Press, 1965).

been conducting orientation conferences for legislators. During 1966-67, conferences were held in forty-four states, whereas in the early 1950's only twenty-eight states held them.¹⁰ These conferences generally consist of a one-, two-, or three-day meeting prior to or early in the legislative session.

Maryland is one of these states. But, unlike in nearly every other state, where conferences were arranged either by legislators themselves or by legislators in cooperation with staff, administrative personnel, and state universities, in Maryland the program was run solely by the Department of Legislative Reference. Unfortunately, the 1967 Maryland orientation was, in the opinions of a number of legislators, less than an impressive event.

We are convinced of the potential value of a good orientation program and suggest that one be developed under the auspices of the Joint Committee on Legislative Policy and Management. Conferences should be held every four years, for a period of several days sometime after the election of members of the General Assembly and before the start of the session. Participants should include not only legislative staff, but also leaders and committee chairmen and

¹⁰ Council of State Governments, American State Legislatures (Chicago: The Council, 1967), pp. 16-17.

heads of major executive departments and agencies. If time allowed for speeches were carefully regulated, greater opportunity could be given freshman legislators to ask questions of executive and legislative leaders and staff.

It is not our intention to formulate an orientation program here. The American Political Science Association organizes and helps conduct orientations for state legislatures and has already provided its services in Illinois, Wisconsin, and other states. We suggest that the Maryland General Assembly call upon the American Political Science Association for assistance in developing an orientation program to be used in future years.

Related to pre-session conferences are the kinds of basic informational materials made available to new and old legislators alike. At the present time, Maryland legislators have little in the way of briefing and reference materials which they can draw upon as the need arises. To our knowledge, the only such document is an extremely useful mimeographed explanation of "The General Assembly, the Budget, and State Finances," put out by the Fiscal Research Bureau in late 1966. By contrast, a number of other states distribute considerably more basic information. In Utah, the Legislative Study Committee publishes an orientation manual.

The Wisconsin Legislative Reference Bureau issues a publication entitled "The Legislative Reference Bureau Can Help You," which describes in some detail the many services it provides to members. In California a wealth of reference material is distributed to legislators. A voluminous "Briefing Material For New California Legislators" provides a description of the organization and functions of major agencies of state government, including the names and phone numbers of appropriate departmental legislative contacts. There is even a special manual for administrative assistants, which briefly discusses the organization of the legislature and documentary, executive, and legislative sources of information.

Maryland is negligent in this respect. We suggest that the Joint Committee on Legislative Policy and Management, or a similar leadership group, undertake, by means of present legislative staff or a special consultant such as the American Political Science Association, to assemble a manual for members of the General Assembly. This manual, as well as other basic publications, should be revised as the need occasions.

Legislative Consultants

Contracting out of studies and research is still extraordinary behavior for state legislatures, although a few, such as California

and Wisconsin, have begun to allocate funds for these purposes. Maryland, of course, has employed the Eagleton Institute of Politics as a consultant to study and make recommendations on the organization and operations of the General Assembly.

Executive departments and agencies, primarily those of the federal government, have turned to management consultants, data processing firms, and university personnel with increasing frequency. During the past years, Congressional committees, especially Senate Foreign Relations, have hired consultants for particular tasks. Yet, the feeling still persists that internal staff, however competent, cannot provide the information Congress requires to keep pace with executive experts and that increased funds must be allotted to commission external research on a consultative and contractual basis.¹¹

We suggest that the Maryland General Assembly seriously weigh the advantages of employing consultants on a highly specialized basis. When a problem is exceedingly complex or technical, legislative staff cannot be expected to possess sufficient capability to deal with it. In such occasional circumstances, the legislature should not draft executive experts, but instead should hire on a

¹¹ See, for instance, Charles R. Dechert, "Availability of Information for Congressional Operations," in The American Enterprise Institute for Public Policy Research, Congress: The First Branch of Government (Washington, D. C.: The Institute, 1966).

temporary basis experts of its own. This does not mean that contracting out will become a way of legislative life. We conceive of a tightly controlled system under which standing committees and joint interim committees would be required to obtain authorization from the Joint Committee on Legislative Policy and Management before a research contract could be let or a consultant engaged. In accord with this idea, the proposed Bureau of Policy Research might begin compiling lists of potential legislative needs for esoteric information and resource personnel in universities, the professions, business, and industry.

Top priority, of course, is for the legislature to employ additional staff, as we have counseled repeatedly. Then, it would be useful to determine how the staff serves the legislature and whether or not, in what specific circumstances, and how consultants may profitably be used. However, if staffing takes some time, it may be necessary to use consultants in the very near future.

In a similar vein, we have suggested previously that standing committees be served by advisory panels of citizens and experts who have knowledge of affairs within their jurisdictional concerns. This is simply another way to furnish legislators with advice and information.

Still another possibility exists. The California Assembly has

had notable success with a series of joint Assembly-University seminars to acquaint legislators with academic views on specific areas such as revenue and taxation, urban problems, and social insurance. The California experience demonstrates that, if methods of planning, management, and financing can be devised, such seminars can provide a legislature with valuable insights gained from academic sources.¹² Along these lines, we urge the leadership of the General Assembly to consider jointly with the University of Maryland the initiation of a series of seminars which would bring academic experts and legislators together on a recurring basis.

Computerized Information Processing

There are a number of ways in which automatic data processing by means of computers can be used to facilitate the flow of information in the legislature. Wherever large quantities of data exist and are supplemented by additional data at frequent intervals or records lend themselves to coded inputs, computers may be useful. Thus far several important legislative applications have

¹²In fact, the seminars proved so successful and demand so great that the program came to a halt because of insufficient finances. Lee Nichols, "The California Assembly Seminars," in State Legislatures Progress Reporter, v.2 (November, 1966).

been recognized. They are searching and retrieving statutes, maintaining a record of the status of legislation and budgets, drafting bills, and preparing and indexing legislative journals.¹³

In recent years a number of state legislatures have started to use the computer at various points in the legislative process. The status of contemporary computer application, as reported by the Council of State Governments, is indicated in Table 9. Most recently, Wisconsin adapted a system of statutory search and retrieval and Illinois appropriated \$92,000 to contract for electronic data processing of its statutes. In Maryland, the Wills Commission recommended that "the General Assembly begin a study to determine the feasibility of adapting automation procedures to Maryland's legislative needs" (p.43). Since publication of the report, the legislature has taken a few steps to inform itself of data processing applications.

We urge that the General Assembly delay no longer the consideration of computerized information processing especially statutory search and retrieval. Both in drafting bills and revising statutes, the legislature repeatedly needs precise information on changes that must be made throughout the code as a result of a change in a single section. For greatest precision and thoroughness,

¹³Electronic Data Processing Study Committee, Wisconsin Legislative Council, Report to the Legislative Council on the Application of Data Processing Procedures to Statute Research, to Legislative Bulletin and Journals, Bill Drafting, and Statistical Information Research, LCR-67-1, December 19, 1966.

TABLE 9. LEGISLATIVE USE OF AUTOMATIC
DATA PROCESSING

History of Bills	Statutory Retrieval	Budget Status	Bill Drafting	Journal Indexing
<u>In Operation</u>				
Connecticut	New Jersey	Ohio		
Iowa	New York	Virginia		
Florida	Ohio			
Kansas	Pennsylvania			
Michigan				
Missouri				
New York				
Tennessee				
Wisconsin				

In Design or Completed

Texas	Alaska	Alaska	Oregon	New York
Vermont	Hawaii	Iowa		
	Iowa	Wisconsin		
	Kansas			
	Texas			

Source: Based in part on information received from the Public Administration Service, Chicago. Reported in Council of State Governments, American State Legislatures (Chicago: The Council, 1967), p.38.

the entire text of Maryland's statute law should be put on magnetic tape so that it can be read by a computer. Statute search by computer will involve initial costs of putting the Maryland code on tape and training research personnel to use the system and the continuing costs of updating tapes after passage of new laws and the expense of computer time to run each individual search. But the benefits are well worth the costs. Accuracy and precision, savings in staff time, and the realistic possibility of revising Maryland statutes with regularity and efficiency are likely to result.

We do not advocate wholesale adoption of computer technology. It is probably too early to determine precisely how data processing can be most economically adapted to legislative needs. Furthermore, there is a limit to the new technology any legislature and legislative staff can absorb at one time. Gradualism is the appropriate course, with automation proceeding one step at a time. If reaction is favorable, then further steps may be taken.

Legislative Interns

The idea of internships in government is by no means new. For some years now, the executive departments of the federal government have sponsored a management intern program. It has proved extremely successful. Last year, Maryland's executive requested

funds for twelve management interns, but at the recommendation of the two finance committees, no monies were appropriated by the General Assembly. On the legislative side, the most widely known internship program is the American Political Science Association Congressional Fellowship, which now has operated for more than a decade.

During the past ten years, state legislatures have cooperated with local universities in establishing internships of their own. Since 1957, legislative staff internships have been initiated, with Ford Foundation matching grants, in thirteen states--California, Hawaii, Illinois, Indiana, Kansas, Massachusetts, Michigan, New York, Ohio, Oklahoma, Texas, Washington, and Wisconsin. In many, but not all, their success has been notable. The proof is that at the end of the Ford grant, the California Assembly voted to assume full support of the program. The New York legislature agreed to increase its support in order to extend the life of the program and the Illinois General Assembly appropriated funds for full support of eight interns in addition to the six provided by its matching program.¹⁴

¹⁴Robert Seaver, "Internships and Legislative Staffing," State Legislatures Progress Reporter, v. 2 (December, 1966).

We strongly favor internship programs for both the executive and legislative branches of Maryland Government. The potential benefits are significant. First, an internship provides valuable experience for students engaged in graduate study of law, political science, or related subjects. Second, a good internship program provides supplementary staff for the legislature. Interns cannot replace professional, permanent legislative staff, but they can supplement the always limited staff resources of the legislature.

Third, and perhaps most important from the standpoint of the General Assembly, interns provide a pool of talent for the recruitment of professional staff. A period of ten months or so permits legislators and regular staff to look at prospective staff members. Those interns, who have shown both the desire and ability to do the work and who are satisfied with their job experiences, are ideal candidates. In several states, interns have been asked to stay on. The California Assembly program, which has run for almost a decade, provides persuasive evidence of recruitment possibilities. In the first five years, nearly half of the interns subsequently served as members of the Assembly staff. The rate dropped off as permanent staff approached full strength, but still by 1965 about one-quarter of all the interns had become legislative aides.

We agree generally with the Wills Commission recommendation that the General Assembly undertake an internship program (p.41). The appropriate supervisory agency, in our opinion, would be the newly proposed Bureau of Policy Research, operating under the direction of the Joint Committee on Legislative Policy and Management. In general, graduate students might spend a ten-month period working on a full-time basis for either the legislature or executive. We would suggest that each of four interns who might be assigned to the General Assembly work for one of the standing and joint interim committees and be paid about \$4,500 for the period of his internship. It is important that each intern be rather closely supervised, particularly at the beginning of his term. Such supervision would be the job of either the committee chairman or his administrative assistant.

Naturally, a number of problems will have to be worked out. But this will be the task of the Joint Legislative Committee, the Bureau of Policy Research, and university representatives. A carefully planned, skillfully arranged, and closely supervised internship program will not fail in achieving its objectives. As the executive secretary of the Washington Legislative Council commented in assessing the state's intern program: "There is no question that the services purchased by the salary payments...have had value far in excess of the dollar cost."¹⁵

¹⁵Quoted in ibid.

Proposals

In order to increase the quantity and quality of relevant information available to members of the General Assembly, we recommend that:

(61) The legislature's orientation program for new members be substantially improved by:

(a) Holding two- or three-day sessions after each general election and before the General Assembly convenes;

(b) Including as participants legislative leaders, committee chairmen, legislative staff, and heads of major departments and agencies;

(c) Requesting the American Political Science Association to provide its services in developing the next orientation program;

(62) The Joint Committee on Legislative Policy and Management, or a similar leadership group, direct staff or employ special consultants to prepare basic informational manuals for all members of the General Assembly;

(63) The Joint Committee on Legislative Policy and Management weigh seriously on a case-by-case basis the authorization of funds to employ consultants when requested by standing and interim committees with particular projects or studies to accomplish;

(64) The Joint Committee on Legislative Policy and Management consider jointly with the University of Maryland the initiation of a series of seminars focused on substantive problems of concern to members of the General Assembly;

(65) The Joint Committee on Legislative Policy and Management study most diligently computerized information processing, with a view toward adapting statutory search and retrieval processes to the needs of the legislature;

(66) In collaboration with local universities and, perhaps, the executive branch, the Joint Committee on Legislative Policy and Management formulate an internship program under which about four graduate students may spend about ten months each year working for standing and interim committees of the General Assembly.

CHAPTER VI. POWERS OF THE PURSE

Among the greatest powers of American legislatures are powers of the purse. The ability to appropriate or not appropriate affords legislatures potential influence over nearly every aspect of government. But the sad fact is that legislative control of budgetary and fiscal policy has waned markedly in the past decades. One experienced participant in legislative work explained the dilemma of representative assemblies as follows:

...state lawmakers flunked their job of budget-making in the early years of the 20th century, so governors, aided by citizen groups, rose to demand that budgets be assembled by the chief executives. Budget bureaus, well manned and technically trained, emerged to serve governors. [Legislators] retreated fiscally, ...and, in effect, abandoned control over the purse-strings. As a result, the imbalance between executive and legislative strength in fiscal policy-making has shriveled legislative power.¹

Our survey of legislatures in fifteen of the larger states documented this assertion. In general, these legislatures were found to be least influential

¹ Albert J. Abrams, "The Lost Art: Fiscal Policy Making," State Legislatures Progress Reporter, v. 1 (February, 1966).

on matters of budgetary policy.²

In the view of many of its members, the General Assembly of Maryland falls short of the mark in the domain of fiscal control. As reported in Chapter I, two out of five legislators are critical of the job being done in funding state programs. Four out of five feel that legislative oversight and review of executive performance is not up to par. One member, in fact, characterized the legislature's annual budget process as a "charade".

A major problem of legislative review is inadequate time. Well over half the members responding to our survey expressed dissatisfaction with the amount of time devoted to the budget and appropriations. Another problem relates to the committee system. According to a number of members, during the session committees fail to provide thorough budgetary analysis and between sessions they perform little or no effective review. As a result, too many fiscal decisions are whimsical or irrational. Still another problem is staff. There is widespread agreement that greater staff assistance and more meaningful fiscal information must be made available if the legislature is to competently execute its duties of budget review and fiscal analysis.

²Center for Legislative Research and Service, Eagleton, "One-Third of the States: Materials Prepared for Participants in the Carnegie Conferences on State Legislatures," May, 1967.

We have already mentioned these problems in somewhat different contexts. The area of budgetary and fiscal policy is special, however. Time, committees, staff, and information all assume critical dimensions, since legislative influence is so largely dependent upon rational legislative control of the purse. The creation of the Joint Legislative Committee on the Executive Current Expense Budget (Committee on the Executive Budget) in the final hours of the 1967 session, an outgrowth of the legislature's feeling of "budget frustration," was also a significant step towards improving fiscal performance.

The Committee on the Executive Budget, in cooperation with the Committee on Taxation and Fiscal Matters, has issued a report for consideration by the legislature's leadership. The report opens with the admonition that "the time has come to stop talking about the inadequacy of legislative review of the executive budget and to start doing something about it" (p. 1). Its first recommendation urges the General Assembly to "take immediate steps to improve the quality and thoroughness of its review of the budget" (p. 5). We are in complete agreement, and therefore offer several suggestions specifically designed to strengthen the legislature's budget and fiscal capabilities.

Legislative Powers and Procedures

The budgetary powers of the General Assembly are severely limited

by the Maryland Constitution. Unlike Congress and most state legislatures, the General Assembly is constitutionally prohibited from increasing the executive budget (Article III, Section 52). It may increase items relating to the judiciary or the legislature itself, but may not add to funds for executive programs and administration. Moreover, certain educational programs are exempt from budgetary cuts by the legislature as well as by the governor. These "mandated" programs include the state share of current expense, pupil transportation, incentive funds for school construction, the Teachers' Retirement System, and several others.

At first glance, these provisions, whose continuation is recommended by the Constitutional Convention Commission, would seem to be ones few legislatures would tolerate. Admittedly, the legislative tendency is to trim a governor's budget, not add to it. Nevertheless, legislatures must have the power to increase expenditures for certain programs, decrease those for other programs, and make no changes in expenditures for still others. The legislature cannot do this in the formal enactment of the budget.

But formal requirements can be misleading. In fact, the General Assembly can exert practically as much influence over the executive sections of the budget as it chooses. Take public education, for instance. Here restrictions appear most confusing. What happens is that once the legislature enacts an educational program with certain guidelines or funding

formulas, it is up to the department of education to decide two factors. First, the specific definition of formula classifications, and, second, the decision as to which children qualify according to legislative intent. Unless the legislature revises guidelines or formulas by law, funding is determined by administrative interpretation and decision. This is as it should be. The General Assembly has the power and responsibility to constantly review the implementation and impact of programs it enacts. If changes are necessary, then the legislature should enact amending legislation. In short, the General Assembly still determines what educational items are to be "mandated".

The legislature may have additive as well as negative impact on spending. It is constitutionally free to increase the budget for capital expenditures. In addition, it may increase the executive operating budget, although by somewhat indirect means. First, legislators, and particularly leaders, can appeal to the governor for extra appropriations to be included in a supplemental bill. This is an informal method of legislative influence, depending largely on negotiations and bargaining with the governor. Second, the legislature can enact appropriation bills once the budget is passed. If measures for the expenditure of funds are complemented by measures for raising funds, then appropriations would go into effect immediately. Few bills of this type are passed, since most legislators are extremely reluctant to raise taxes. However, as one leader remarked: "If the legislature has

the courage, it can do anything it wants to, but this means passing a tax."

Probably the most travelled route in adding to gubernatorial requests for programs and agencies is by passing an appropriation bill, but not providing for its funding. Unless the governor vetoes the bill, he must include in his budget for the next fiscal year a request for funds at the level specified by the legislature. Thus the legislature's impact is delayed by a year. If the governor vetoes an appropriation bill and the legislature overrides his veto at its first meeting of the next annual session, its impact may be delayed for two years.

As a matter of fact, the budgetary system allows the General Assembly considerable discretion. Therefore, we feel that constitutional limitations should be continued. Nearly every legislator whom we interviewed agreed. Four out of five members of the Ways and Means and Finance Committees who responded to our survey expressed satisfaction with present constitutional powers. A number of members, when asked whether they favored the present constitutional system under which the legislature had no power to increase the executive budget, replied simply: "The system works well now." Another, who was asked the same question, answered: "Thank God for it."

We are convinced that the system does work and little would be

gained by constitutional revision. Other changes--in legislative scheduling, organization, and information--will improve things and focus responsibility for budgetary deletions and additions. In Chapter II, we made several recommendations with respect to budgetary power and scheduling. At this point, we need only to briefly repeat them. First, the constitutional provision which allows either house to consider other appropriation bills, but prohibits final action by both houses until passage of the budget should be retained. Second, the legislature should set its own deadline date for enactment of the budget and there should be no provision for automatic passage.

In addition to these proposals, we recommend that:

(67) The new Constitution retain provisions permitting the General Assembly to increase budget items relating to the legislative or judicial branches and to reduce items relating to the executive branch;

(68) The budget bill shall become law when passed by both houses of the General Assembly and shall not be subject to veto by the governor.

Committee Procedure and Budgetary Control

The scope of the General Assembly's formal powers are, as we have implied, in large part symbolic. The real and effective budgetary power of the legislature depends mainly on the strength of the committees which deal with revenue and appropriation measures. Several of our suggestions

with regard to the organization and duties of standing and interim committees have already been presented in Chapters III and IV. Here, we shall direct attention specifically to the Senate Finance Committee and the House Ways and Means Committee and their conduct in budgeting and appropriating funds for state programs and agencies.

Preparation of the Budget

The executive budget principle is now the rule in most states, although in some states legislatures are involved to varying degrees in the formulation of the budget. In twenty-one states, there is some form of legislative participation in addition to drafting the section on the legislative branch. For example, in Indiana, Mississippi, and South Carolina budgets are prepared by groups composed of representatives from both the executive and legislature. In Texas separate budgets are prepared by each branch. In Nebraska a legislative budget committee has the major voice in formulation. And in Illinois, a legislative budgetary commission examines agency requests, meets with departmental chiefs, and makes recommendations to the governor.³

³ Tax Foundation, State Expenditure Controls: An Evaluation (New York: The Foundation, 1965), pp. 20-21. A thorough assessment of the inadequate role played by the Illinois Budgetary Commission can be found in Thomas J. Anton, The Politics of State Expenditure in Illinois (Urbana, Illinois: University of Illinois Press, 1966).

In Maryland, the preparation of the budget, except for legislative and judicial appropriations, is entirely the responsibility of the governor. As we have already noted, the General Assembly does in fact play an indirect role. By passing appropriation bills, it forces the governor, unless he employs his veto, to request funds for legislative priorities in his subsequent budget. Moreover, the legislature, through its leadership, can always make its wishes known to the executive before the budget is finally submitted. There is no way to preclude such informal influence in any political system.

But there is surely no need for the legislature to play an official part in executive formulation. We concur with the view of the Committee on the Executive Budget that the planning as well as the execution of the budget should be the job of the governor (p. 3). Some people have proposed that members of the finance committees attend the governor's hearings on department and agency budgets, which are held during the latter part of the year. In one way or another, this is done in states such as Iowa, Hawaii, Kansas and New York. We feel, however, that committee members should, insofar as possible, be dissociated from the executive's internal processes. When the budget is finally formulated, legislative committees will have sufficient time and opportunity to review it thoroughly.

No purpose can be served by formal legislative involvement in the preparation of the budget, especially if adequate information is provided as we shall recommend in Chapter VII. Instead, committee members should spend their time during interim periods completing their review of program performance. Fiscal staff, on the other hand, should attend executive budget hearings in order to gain information for briefing legislative committees at the start of the regular session. The point, therefore, is that the General Assembly must have the means to acquire relevant information without committing itself to any particular kind of response to the governor's budget requests.

Therefore, we recommend that:

(69) The legislature play no formal role in the preparation of the budget, but legislative staff continue to attend executive budget hearings for purposes of acquiring information which will be useful in staff support of the finance committees.

Legislative Review during the Session

Steps in the process of legislative consideration of the executive's operating budget are rather straightforward. Budget bills are introduced at the beginning of the session by the presiding officers of each house. The bills are immediately referred to the Senate Finance Committee and the House Ways and Means Committee. Six weeks of separate hearings

are then held, with testimony by major agencies, others who request to be heard, and those whose activities are of special concern to the committees. Each committee chairman appoints subcommittees, which, although not permanent, have been designated for the past several years. These subcommittees--one on personnel and salaries, another on contractual services and technical and special fees, and the third on travel and the use of state automobiles--meet jointly, decide upon reductions, and recommend cuts in identical reports to the two finance committees. Then there is a joint meeting of the full committees where further budget changes are agreed upon. Finally, a joint report is adopted. After a total period of about eight or nine weeks, a single budget bill, as amended by the committees on the basis of subcommittee recommendations, is reported to one house. The practice has been to report the Senate bill one year, the House bill the next.

The capital budget bill is processed in similar fashion. During hearings department spokesmen justify their requests for capital improvements. Subcommittees on the capital budget meet jointly, agree to additions and deletions,⁴ and report to the finance committees at the same

⁴The legislature may increase, as well as decrease, the capital budget (Article III, Section 52 (a) of the Maryland Constitution). The governor may veto a line item in the capital budget bill as adopted by the legislature (Article II, Section 17 of the Maryland Constitution).

time that decisions are being made on the operating budget bills.

When the budget bills are taken up by the House and Senate, members have at their disposal not only the original budget documents prepared by the executive but also a joint report issued by the chairmen of Senate Finance and House Ways and Means. The chairmen explain amendments proposed by the committees. Ordinarily amendments from the floor are few, and these few are made for the benefit of attentive individuals and groups in a member's district. In any event, changes suggested from the floor are hardly ever accepted.

For all intents and purposes, legislative decisions on the budget are exclusively the task of the two finance committees. Although hearings are conducted separately, deliberations are joint, a single budget bill is reported, no changes are made on the floor, and there is no necessity for a conference committee to reconcile differences between the two houses. The General Assembly's budgetary process is a remarkable demonstration of cooperative working relations between the two houses.

In general, these procedures, and especially joint discussions by the two committees and several subcommittees, are satisfactory. Nevertheless, there is dissatisfaction with the ways in which the legislature considers the budget. Table 10 illustrates that a large proportion

TABLE 10. LEGISLATIVE CONSIDERATION OF
THE BUDGET AND APPROPRIATIONS

Aspects of Appropriations Process	Percentages Expressing Dissatisfaction		
	Members of Ways and Means and Finance Committees (N=15)	Other members of Legislature (N=44)	Total (N=59)
Total amount of time spent	57	58	57
Committee hearings	64	24	35
Committee recommenda- tions	42	25	29
Floor consideration	31	38	37

of legislators we interviewed had reservations about the budgetary process. More important than objections to any specific aspect is the fact that roughly a third to a half of the legislators express dissatisfaction about one aspect or another. Interestingly, members of the Ways and Means and Finance Committees, who are most familiar with these matters, are at least as critical as others. In fact, substantially more of them take exception to the manner in which committees hold hearings and arrive at recommendations.

A major problem, as we have mentioned before and as opinion reported in Table 10 indicates, is that legislative time is not used to best advantage. Members of the Finance and Ways and Means Committees are overwhelmed by simultaneous pressures which bear upon them. As the system now operates, they hold hearings on the budget, meet in budget subcommittees, consider other appropriation bills, and attend sessions of the House and Senate during the same periods of time. As a result, it is extremely difficult for a single issue to be given the concentrated attention it deserves.

To alleviate this problem, we have suggested in Chapter II that the General Assembly make use of the split session (Recommendation 10). After a period of two weeks, during which organizational and introductory matters could be settled, the legislature would recess for three weeks.

While the legislature was organizing, the Fiscal Research Bureau would begin intensive analysis of the governor's published budget and prepare, under the direction of the two committee chairmen, a schedule of hearings. These hearings would commence at about the same time they now commence, toward the end of January. Three weeks of day-long hearings, without the press of other legislative business, will enable the committees to give the budget thorough and uninterrupted scrutiny.

This scheduling arrangement should also provide for more rational examination of appropriation bills. Committee members will have had intense exposure to the executive budget and agency presentations before taking up new appropriations. Thus, they should be able to arrive at sound judgments of what measures are needed to supplement programs which have already been requested by the executive branch. Furthermore, the three-week recess for committee hearings will permit substantive committees of the House and Senate to examine the programmatic merits of bills before they are sent to the finance committees for appropriation decisions.

There are other ways to deal with the problem of time. In about twenty states joint budgetary hearings are conducted, either by joint finance or appropriations committees or by separate standing committees

meeting together for this purpose. Obviously, this cannot easily be done in Maryland. Joint hearings, attended by approximately fifty members of the two committees, would not save legislative time. Hearings before such a large group would be awkward, long, and not at all profitable.

Joint hearings alone provide no remedy. Some people suggest a division of labor in the conduct of hearings. One proposal is that a joint subcommittee of Finance and Ways and Means hold hearings on the budget, while another subcommittee deals with appropriation bills. If the split-session technique is adopted, this arrangement would not be necessary, since members would handle the budget first and appropriation bills later on. Another proposal would have the two finance committees divided into subcommittees which would hold joint hearings. One legislator suggests that half the members of the two committees hear certain departments and agencies, while half hear the rest. The Wills Commission goes further. In its report it recommends that subcommittees hold joint hearings on a number of designated functional areas of the executive budget (p. 33).

All of these ideas for a division of labor in the conduct of hearings offer a distinct advantage. The time of committee members would be conserved, since different groups would hold different hearings.

But these suggestions encounter a serious political hurdle. Members of the two committees insist on having an opportunity to confront every department and agency head, not only half of them or those whose programs fall in one area or another. One reason is that they prefer the broadest exposure, which presumably affords them a larger scope for influence. Another reason is that full committee hearings give them the chance to make their views known, not just on one kind of issue but on the widest variety. One legislator stated the argument plainly, when he said, "budget hearings are used as a weapon by legislators to bang administrators on the head."

The dilemma is obvious. On the one hand, greater specialization is necessary if the budget is to be efficiently and effectively reviewed. On the other hand, legislators themselves demand the opportunity to participate in all the action, not just part of it. The problem, however, can be resolved. We believe there is value in permitting as many committee members as possible to hear testimony from all witnesses on the executive budget. This enables them to absorb information not only on operating expenses but also on requests for capital improvements. It also encourages a broader, less parochial view of state government and the relationships among differing types of programs. It allows them to compare the merits of spending for one purpose with the merits of

spending for another. In an age of increasing specialization, there is much to be said in favor of developing specialists who still have some familiarity with general areas.

If separate hearings before the full committees of Finance and Ways and Means continue, it is extremely important that subcommittees operate most effectively. These groups formulate amendments, and these are generally accepted by the full committees before the budget bill is reported out. Maryland now has a program budget. Most budget experts believe that legislative evaluation should be primarily on a programmatic basis. Yet, committee members frequently forget that their major job is the assessment of new and old programs and decisions concerning the proper expenditure levels for each one. A chronic ailment of the legislative process, as the Committee on the Executive Budget notes, is "an all too frequent proneness on the part of committee members to wander far afield in pursuit of favorite projects or pet hates-- or to get deeply involved in the minutiae of the budget" (p. 2). This, of course, includes disproportionate concentration on matters of personnel, automobiles, and the like.

Such misplaced emphasis is encouraged by the present composition of joint subcommittees. We urge that instead of subcommittees organized to deal with personnel, contractual services, and travel, as presently,

they be established permanently according to broad functional areas. Each of the committees should appoint four subcommittees, one to consider the capital budget and three to review and suggest changes with respect to certain programs. We suggest that these three functional subcommittees be organized generally along lines which have already been proposed in our recommendation on House committee consolidation (Recommendation 16). Thus, one subcommittee would be responsible for evaluating the budget of the many agencies whose jurisdictions are in the area encompassed by what we have designated "economic affairs." Another subcommittee would have as its task evaluation of agency budgets encompassed by "state affairs." The third subcommittee would review budgets on "health, education, and welfare."

These subcommittees would deliberate and propose recommendations jointly, as subcommittees do now. Committee reports, particularly where budget decreases are recommended, might well offer greater explanation in terms of program levels and program accomplishments than is now the case. Final decision would still be the prerogative of the two committees, all of whose members could be counted on for general familiarity with the entire executive budget as a result of staff briefings and weeks of hearings.

Program-oriented subcommittees appear to hold substantial promise

for the improvement of legislative budget review. First, specialization can be developed, without totally sacrificing general competence on budgetary matters. Second, the very fact that subcommittees were organized by program areas should encourage committee members to direct their attention and questioning during hearings not simply to personnel, salary, contractual, or travel items but to broader dimensions of policy. Third, closer relationships and greater exchanges of information and advice between substantive and finance committees of the two houses might be facilitated, since program concerns will follow parallel lines. Fourth, staff members of the Bureau of Fiscal Research will have the opportunity to begin specializing in functional areas, so that a single staff man can support each of the joint subcommittees as well as provide occasional assistance to substantive committees handling similar programs.

We believe that adoption of the preceding suggestions will help to reorient committee scrutiny of the executive budget, particularly if some of our subsequent recommendations concerning interim work and staff support are also followed. Therefore, at this point, we recommend that:

(70) The House Ways and Means and Senate Finance Committees continue to devote their major attention during the first half of the annual session to budget bills, turning to other appropriation measures later when members have become well acquainted with executive requests for various programs and agencies;

(71) House Ways and Means and Senate Finance continue to hold hearings separately before full committees;

(72) Joint subcommittees, which evaluate and make recommendations for budgetary changes, be reorganized as follows:

(a) A capital budget subcommittee continue to have responsibility for capital improvements;

(b) Three additional subcommittees be constituted so that each one has responsibility for certain broad areas of state programming, such as economic affairs, state affairs, and health, education, and welfare;

(c) Subcommittees provide more detailed explanations in support of their recommendations for budget decreases to their parent committees;

(73) Committee and subcommittee chairmen advise members to direct their critical attention to program evaluation and program expenditure rather than to technical details and the costs of specific line items.

Legislative Review during the Interim

If the fiscal work of the two finance committees is to be substantially improved, and especially if the attention of members is to be reoriented, budgetary affairs must receive continuing scrutiny. It is not enough to have the committees begin their review in January. A core of members must devote themselves to budgetary problems throughout the year.

In Maryland, interim budgetary review has been conducted spasmodically during past years. The twenty-member Committee on Taxation and Fiscal Matters, surely one of the really productive interim committees, has studied budget problems from time to time and has had a subcommittee on budgetary review operating on an intermittent basis. In addition, a ten-member joint committee on the Capital Budget has been quite successful in conducting field investigations during the interim and advising House Ways and Means and Senate Finance on capital budget items. Yet, as the Committee on the Executive Budget counsels, more intense and comprehensive interim consideration of budgetary matters is believed essential if the legislature is to perform its fiscal role adequately (p. 8).

A number of states have established committee mechanisms for interim consideration of budget-related problems. In twelve states, committees responsible for handling the budget during sessions also meet

during interim periods to consider similar questions. In eight other states there are special joint interim committees which have budgetary functions, such as conducting special investigations of agency operations and financial affairs.⁵ Today, there is considerable support by Maryland legislators for the creation of a special interim committee on the budget.

During the 1967 session, a subcommittee of Senate Finance offered several suggestions for interim budget work. It proposed the establishment of a twelve-member joint committee to analyze on a continuing basis program costs and to identify major budgetary policy questions to be answered by the legislature. In its report to the legislature and people of Maryland, the Wills Commission took a similar position. It recommended the creation of a Joint Budget-Planning Committee, composed of members of Senate Finance and House Ways and Means (pp. 33-34). Most recently, the special Committee on the Executive Budget proposed that:

there be created as soon as possible a Joint Legislative Budget Committee composed of approximately fourteen (14) members, seven from the Senate Finance Committee and seven from the House Ways and Means Committee, with instructions to meet as frequently as necessary between sessions in order to build up a body of knowledge that can be used during sessions to enable the General Assembly to identify important policy questions in the annual operating budget and to render intelligent and independent judgments (p. 10).

⁵ Council of State Governments, Budgeting by the States (Chicago: The Council, 1967), p. 83.

This recommendation was overwhelmingly endorsed not only by members of the Committee on the Executive Budget, but also by members of the Committee on Taxation and Fiscal Matters.

Our survey of Maryland legislators also indicates virtual unanimity on the question. Almost 90 percent favor such a committee, while less than 4 percent are opposed. A few are neutral or undecided. Senators and delegates, leaders and followers, members of the finance committees and members of other committees all express strong support for the establishment of a joint committee to analyze revenue and expenditures between sessions.

In Chapter III we recommended a system of joint interim committees (Recommendations 25 and 26). This arrangement calls for a Joint Committee on Finance, to be composed of 21 members of House Ways and Means and 11 members of Senate Finance. The responsibilities of this joint committee would encompass those presently residing with the interim committees on Taxation and Fiscal Matters, Capital Budget, and Budget and Finance, as well as those suggested for a new joint budget committee. It would seem most logical to have the work of our proposed Joint Interim Committee on Finance parcelled out among three standing subcommittees. A Subcommittee on the Capital Budget would continue as before, conducting interim investigations and visiting state facilities to determine the need for additional

capital improvement. A Subcommittee on Taxation and Fiscal Matters would carry on its previous work concerning tax and related problems. Finally, a Subcommittee on the Current Expense Budget would review on a continuing basis budgetary expenditures and program performance.

Although the entire joint committee might meet from time to time, especially during the early and concluding periods of the interim, work tasks would be primarily in the hands of the three subcommittees. Each one of these groups, composed of ten or more legislators and supported by at least one staffer from the Bureau of Fiscal Research, would meet regularly throughout the interim, conduct studies, evaluate the executive's performance with previously budgeted funds, draft reports, and prepare whatever legislation necessary for screening by the full committee and introduction at the beginning of the following session.

Such an interim system would develop the types of budgetary and fiscal expertness the legislature sorely needs. It would, in our opinion, serve as well or better than a single joint budget committee grafted onto the present plethora of fragmented interim committees of the legislature. However, we should note one possible complication.

In its report, the Committee on the Executive Budget commented that a system of continuing standing committees may be "the only feasible way to provide coherence between sessions or to avoid interminably long

sessions, but our committee has no way of knowing if the General Assembly is ready to accept the whole Wills Commission package at this time" (pp. 9-10). The Committee concluded that the question of improving budget review can, if necessary, be dealt with apart from other proposals for the reorganization of committees. On the basis of survey and more intensive interviews, we do not believe that separate consideration is either advisable or necessary. The legislature appears willing to make significant changes and should be encouraged to do so now. If we are mistaken, and more comprehensive committee reorganization is not immediately feasible, we would naturally endorse prompt adoption of the proposal for a joint budget committee as a step in the right direction.

In order to improve committee review of the budget and fiscal policy, we recommend that:

(74) A Joint Interim Committee on Finance be established and:

(a) That it be composed of 21 members from House Ways and Means and 11 members from Senate Finance;

(b) That it be divided into three standing subcommittees, one on Taxation and Fiscal Matters, another on the Capital Budget, and the third on the Current Expense Budget;

(c) Each subcommittee be staffed by at least one professional from the Bureau of Fiscal Research;

(d) These subcommittees conduct studies, evaluate executive performance, draft reports, and prepare whatever legislation necessary;

(75) If it is imperative that adoption of a system of joint interim committees be postponed for a year or two, in the meantime the legislature proceed to establish a joint budget committee to operate during the interim period.

CHAPTER VII. FISCAL STAFF AND BUDGETARY INFORMATION

In order that reorganized finance committees have the necessary means to accomplish their objectives, it is necessary to strengthen the legislature's fiscal staff and increase the utility of fiscal information. In a previous chapter, we suggested a general reorganization of legislative services. Now, we shall examine in somewhat greater detail how two staff groups--the Bureau of Fiscal Research and the Bureau of Post Audit--can best support the work of the General Assembly.

Each proposed service agency will be held generally accountable by the Joint Committee on Legislative Policy and Management. During the session, immediate supervision of Fiscal Research and Post Audit will be the responsibility of the House Committee on Ways and Means and the Senate Committee on Finance. During the interim, the two fiscal service agencies will devote the largest part of their resources to the support of the Joint Interim Committee on Finance and its subcommittees.

The staff group critical to the achievement of the legislature's budgetary goals is the Fiscal Research Bureau. Six or seven professionals in the bureau now serve the two standing finance committees and a number of interim committees and also respond to the needs of the executive branch. One member has had the job of keeping track of local government finance and preparing a report for publication, another has specialized in public

welfare and the capital budget, two have helped the Committee on Taxation and Fiscal Matters, another the Committee on the Executive Budget, and the director lately has spent a large amount of time on tax legislation. In addition, the bureau has occasionally been called upon by the General Assembly for special studies, such as the effects of federal aid on state government.

As mentioned previously, there is general agreement among legislators that Fiscal Research has been performing well. Our survey of legislator opinion indicates that over ninety percent of delegates and senators are satisfied with the job it is doing. And nearly all the members of the two finance committees are content with help provided by bureau staff. Yet, there is room for improvement. This is not only our opinion but also that of the Committee on the Executive Budget and of the director of Fiscal Research.

Bureau of Fiscal Research

If, as we have already proposed, the Bureau of Fiscal Research is exclusively responsible to the General Assembly (Recommendation 53), it should be able to improve its performance without major redefinition of its duties or any radical increase in staff. Statutory revision is required to eliminate the bureau's existing obligations to conduct studies and assist commissions as requested by the governor. Otherwise, present sections

of the code permit the bureau considerable discretion in defining how it will pursue its tasks.

In addition to its responsibility for collecting, tabulating, and publishing data on local governmental finance, it must conduct studies as directed by the legislature and its committees. It is also required "to continuously conduct studies of the operation, administration, personnel, physical plants of all state departments, institutions, authorities, and agencies" and submit reports with recommendations, if any, to the General Assembly. Obviously, what counts is how Fiscal Research translates these obligations into practice and the adequacy of its resources to do as comprehensive and thorough job as possible.

In an organizational sense, we conceive of the Bureau of Fiscal Research operating along more specialized lines. With a slightly enlarged staff, including the director and eight professional analysts, a high degree of specialized competence might well be achieved.

One staff member would focus his attention on the capital budget, working with the Subcommittee on the Capital Budget throughout the entire year. Three others would concentrate on broad areas of the operating budget, their responsibilities paralleling those of the proposed functional subcommittees on Economic Affairs, State Affairs, and Health, Education, and Welfare. During sessions, these four staff men would attend committee

hearings, particularly when testimony on agency budgets within their jurisdictions was being given. They would naturally work closely with the four subcommittees of Ways and Means and Finance, providing basic information, raising fundamental questions of program evaluation, and assisting in drafting subcommittee reports. During interim periods, they would continue review and analysis, helping the appropriate subcommittees of Joint Finance conduct their oversight of executive programs and expenditures. Given their specialties, these four professionals not only should be able to staff the finance committees. They should also be able to provide whatever budgetary information is needed by session and interim committees concerned with substantive areas of policy and by individual members of the House and Senate who make specific requests.

In addition to four budgetary program specialists, other staff members would have somewhat different responsibilities. Two would concentrate on tax and related problems, including local government taxation and finance. Whatever assistance was required by the two finance committees during the session, they might furnish. Between sessions they would serve the Joint Finance Subcommittee on Taxation and Fiscal Matters. As the need arose, they too would respond to individual requests by members for information or advice on problems of taxation.

Finally, two staff members would have primary responsibility for

examining and reporting on the fiscal impact of legislation being considered by the General Assembly. Obviously, they would have to work in close cooperation with their colleagues who are assisting the finance committees and subcommittees. During the interim, when there is less need for fiscal impact analysis, these two professionals would be available to support special committees requiring fiscal assistance and to pursue special studies the bureau might undertake.

This organization of fiscal staff requires close collaboration among central agency professionals, committee and subcommittee chairmen and members, and committee administrative assistants. It also requires constant exchange of information and coordination within the Bureau of Fiscal Research as well as cooperation between the bureau and other service agencies, especially the newly proposed Bureau of Post Audit. If this can be achieved, and there is little reason why it cannot be, legislative fiscal staff will be able to fulfill a variety of significant and inter-related functions.

First, fiscal staff can, and probably should, continue to collect and tabulate basic data and issue a report on local government finance in Maryland. This function could conceivably be performed by some other agency. But the fact is that the bureau has had the responsibility and has performed competently, without expending too many of its limited resources.

Furthermore, an argument can be made that information on local finance is critical to deliberations on state financing in general. Therefore, we suggest that these data continue to be handled by the bureau in the same manner as previously.

Second, staff can help interim committees, particularly subcommittees on the budget, to develop means by which budgeted programs can be periodically reviewed. Certainly, not every agency's operations can be analyzed each interim, but selected ones should be examined. Those programs that provoke greatest criticism, those which are of major importance, and those that have shown the greatest increase in expenditures can be reviewed on a rather regular basis. The remainder should not be ignored, however. Many programs administered by a number of executive agencies are relatively stable from year to year, with budgets increasing only incrementally. Perhaps, some should be eliminated, others reduced, and still others increased. In any case, their continued existence and their present levels of expenditure should not be taken for granted.¹

¹We advise that during each interim period a few programs or agencies be selected almost at random for thorough review. If there is uncertainty about who or what will be reviewed, all bureaucratic chiefs will be inclined to maximal compliance with what they understand to have been the intention of the legislature in appropriating for a particular program.

Interim review by budgetary subcommittees should also serve to inform the legislature about areas which are presently given only cursory scrutiny. According to the Committee on the Executive Budget, there is a "massive disinterest" in the budgets of special fund agencies, since no one has the time or competence to devise ways of effecting savings for the state (p. 2). Surely, interim study of special funds, and especially highway financing, as well as consideration of whether special funds should be merged with general funds is highly desirable in the near future. Federal funding is still another problem.

There is "a similar feeling of helplessness with respect to the Federal funds that appear in the state budget," the Committee on the Executive Budget reports, "--despite the ever present suspicion that the State may be getting into something which will cost it dearly later on"(p. 2). This is because very often programs that originate with matching funds soon find the federal government absolved of its responsibility and the state obliged to finance the entire cost. The Bureau of Fiscal Research should maintain continuing oversight of federal-state relations, reporting to the finance committees with respect to the impact of federal programs on state government and suggesting whatever legislative action it deems necessary.

Third, bureau staff can do much to improve legislative evaluation of the budget during the session itself. Since this year's budget is always

built on last year's, the interim work by committee members and staffers will constitute the most valuable preparation for budget analysis when the legislature meets. A model, which has been suggested for the purpose of improving operations, is the Office of the Legislative Analyst in California. Both the Wills Commission and the Committee on the Executive Budget have called for changes which are patterned after the California agency. In fact, the interim committee has recommended the creation of an office of legislative analyst--one of three components of a Fiscal Research Bureau which would conduct budget-related research (p. 14).

What is significant here is not whether part of Fiscal Research be renamed the office of legislative analyst, but rather the way in which staff review of the budget would be conducted. The Committee on the Executive Budget has implied that Maryland should follow in the steps of California. There, galley proofs of the final budget document are forwarded to the legislative analyst on a confidential basis before the budget is actually submitted to the legislature. We feel that there is no urgent need for such an arrangement in Maryland. If bureau staff functions effectively during the interim and also attends the executive's budget hearings during the latter months of the year, it should be well prepared to begin analysis of the budget at the time of introduction. If our split-session

recommendation were adopted, Fiscal Research would ordinarily have a period of about two weeks before committee meetings and hearings in which to engage in preliminary analysis.

In following the California legislative analyst model, the Committee on the Executive Budget recommended that highest priority be given to an analysis and critique, which would be made available as soon as possible after the publication of the budget (p. 11). On this point, we would only caution that a voluminous document, comparable to the one issued by the legislative analyst in California, might create more problems than it would solve. What appears to be most vital is selectivity and emphasis, not necessarily comprehensiveness. More important than an all-inclusive report is one which helps to focus legislative attention on the most significant problem areas.

Surely, to benefit all members of the General Assembly, a budget critique should be issued. Even more essential than publication is that relevant information be communicated at the most appropriate times to members of the two finance committees. Bureau staff must brief members of House Ways and Means and Senate Finance before hearings get underway. They must also assist committee chairmen and administrative assistants in scheduling hearings. They must be able to bring to the attention of the committees their professional opinions on matters such as

the following: (1) major policy questions regarding the budget; (2) alternative courses of action, program levels, or priorities; and (3) instances in which programs are not being carried out according to legislative intent, the existence of new or substantially enlarged services and programs, and budgetary items which have been previously denied by the committees.

To increase the General Assembly's capability in the realms of fiscal review, we recommend that:

(76) Staff of the Bureau of Fiscal Research be expanded and organized so that:

✓
(a) One member focus attention on the capital budget, serving the Subcommittee on the Capital Budget throughout the entire year;

✓
(b) Three members concentrate on broad areas of the operating budget, paralleling the substantive jurisdictions of the proposed House committees on Economic Affairs, State Affairs, and Health, Education, and Welfare and working with functional subcommittees of Ways and Means and Finance as well as the proposed Current Expense Budget Subcommittee of the Joint Interim Committee on Finance;

(c) All of the four above-mentioned professionals also provide specialized information to substantive legislation committees and individual members of the House and Senate;

✓
(d) Two members concentrate on tax and related problems, serving the two standing committees on finance during the session and the Subcommittee on Taxation and Fiscal Matters during the interim and responding to individual requests as the need arises;

✓
(e) Two members have primary responsibility for fiscal notes and also support whatever special committees need fiscal assistance during the interim period;

(77) The Bureau of Fiscal Research perform the following functions:

(a) Continue to collect, tabulate, and publish basic data on local government finance in Maryland;

(b) Assist interim committees, particularly Joint Finance, in reviewing the performance of executive departments and agencies, evaluating certain programs, assessing special funds, and considering the impact of federal aid;

(c) During the session, assist in budgetary review by attending executive hearings, briefing committee members before legislative hearings begin, helping to schedule hearings, bring to the attention of members major policy questions and alternative courses of action, program levels, or priorities, and issue a relatively brief document analyzing salient parts of the governor's budget.

Fiscal Impact

In addition to the duties we have already specified, a Bureau of Fiscal Research should perform one other important function. It should estimate the fiscal impact of each bill which expressly or implicitly authorizes expenditures for state programs or state agencies. In other words, it should provide members of the legislature with information as to the immediate and anticipated costs of proposals that are introduced.

As of early 1965, twenty-one states had some form of "fiscal note" or "price-tag" for each bill with financial implications. In twelve states fiscal notes were mandatory in both houses, in three they were mandatory in one house only. Six states used fiscal notes or some other cost estimate on a permissive basis. More than twenty additional states reportedly are in the process of considering adoption of fiscal-impact procedures.²

A number of people have advocated some form of fiscal-impact mechanism for Maryland. One senator, for instance, asked: "Is there any fundamental reason why we can't make a fiscal note work in this state?"

²Tax Foundation, State Expenditure Controls: An Evaluation (New York: The Foundation, 1965), pp. 44-45.

The Wills Commission report recommended that fiscal notes accompany legislation affecting appropriations or revenues (p. 35). Moreover, the director of the Fiscal Research Bureau expressed confidence that a manageable system could be devised, if the General Assembly so decided and if his staff were slightly augmented.

Actually, Maryland once did require fiscal notes. In 1963 the legislature passed a law which provided that: (1) any bill increasing or decreasing revenue or requiring an appropriation would incorporate an estimate of the financial effects; (2) fiscal notes were to be prepared by the Fiscal Research Bureau after consultation with the governmental unit affected; (3) the name of the relevant department or agency would appear at the end of the fiscal note, and if more than one governmental unit were affected by a measure provisions for each unit would bear a note; and (4) if no dollar estimate could be provided, the fiscal note would contain a statement to that effect and reasons why an estimate could not be given.³

This procedure, however, was repealed the following year. Evidently, the limited staff of the Bureau had no way of keeping abreast of

³ Cited in State Fiscal Research Bureau, "The General Assembly, The Budget, and State Finances," November, 1966, pp. 6-7.

the huge number of bills which had some fiscal impact. Instead of trying to make this eminently reasonable system work, the General Assembly moved quickly to a half-way measure. Rule 52 A of the House of Delegates attempts to ensure that the fiscal effect of any bill will be communicated to members before a vote on enactment. It specifies that:

- (1) If a bill when enacted would result in an increase or decrease in State revenues, appropriations, or fiscal liability, the chairman of the committee which considered the bill shall explain these financial and fiscal matters to the House;
- (2) The chairman shall also file a written synopsis of this information in the office of the Chief Clerk, and the latter upon request shall make a copy of this synopsis available to any member of the House; and
- (3) The Fiscal Research Bureau, upon request, shall assist in the preparation and publicizing of information required under this section.

Although the Senate has no comparable rule, it operates in the same manner as the House.

In practice, two analysts in the bureau assessed the fiscal impact of bills during recent sessions. Mimeographed analyses were at first distributed to each member of House Ways and Means and Senate Finance before consideration of a bill by the committee. Soon, however, only

committee chairmen were given the information. In addition, Fiscal Research attempts to revise cost estimates as a bill is amended in committee. In the last few days of the session, this system breaks down, as bills are moved regardless of fiscal implications.

We suggest that the present system be revised in a number of respects. A fiscal note should be prepared for every bill with substantial fiscal implications. This means that a copy of each bill drafted by the Bureau of Legislative Reference should be sent to the two cost analysts in Fiscal Research. In determining whether a note is required, they will have to adhere to a reasonable policy, since most legislation has some fiscal effects. In our opinion, fiscal notes should be prepared as a matter of course only when fiscal implications are quite clear, and not when there is indirect impact. If the bill requires a note, then the bill should be sent to the agency collecting revenues or receiving appropriations in the area in question. That agency would determine what the revenues or costs would be, and its determination would be reviewed by Fiscal Research.

Presumably, the estimate would be as accurate as possible, particularly since it would be used by the legislature in subsequent review of agency operations. In other words, with a fiscal note estimate legislative committees would be able to evaluate program performance against

the fiscal impact as originally predicted by a department or agency. If estimates always ran below actual costs, a legislative committee would have reason to question the efficiency of agency performance or the reliability of its estimations of program costs.

When the fiscal note is finally prepared, a copy should be sent to the sponsor. If he disagrees, it is up to him to have his proposal redrafted to alter the fiscal effect or attempt to persuade the agency which made the estimate that it was in error. Another copy of the note definitely should be forwarded to each member of the committee to which the bill is referred. At this point, there is little need to distribute the information to all members of the legislature.

On many bills no further analysis is necessary. But where committee amendments have substantial fiscal effects, it is vital that staff personnel revise original estimates. Otherwise fiscal notes would convey meaningless or misleading information. These revisions not only should be made available quickly to committee members but they must also be distributed to all members of the house when the bill is reported to the floor. We propose that fiscal notes, which accurately reflect the impact of a bill as it is sent to the floor, be included as part of a committee's brief report on each important piece of legislation. Amendments from the floor also should be examined by Fiscal Research staff, so that

when they are offered members will be aware of the fiscal changes their acceptance would entail.

With two analysts working at this task, pre-filing procedures, and cooperation from executive departments and agencies, this system should be feasible. As a rule, no committee should take up a bill which has major fiscal implications unless a note has been prepared. With a longer legislative session and more rational scheduling, there will be less need for frantic committee activity during the closing days. Nevertheless, we recognize that at the very end of the legislative session, it may be impossible to comply with formal procedures in every case. Still, fiscal-impact information should be obtained, revised as is necessary, and communicated by committee chairmen when a bill is brought up on the floor.

We are confident that a system such as this one will work if given the chance. Therefore, we recommend that:

(78) A fiscal note procedure be adopted which provides that:

(a) The Bureau of Fiscal Research receive from Legislative Reference a copy of every bill drafted by that agency;

(b) The bureau decide whether a bill substantially increases or decreases state revenue, appropriations, or fiscal liability, and if so prepare a fiscal note after consultation with the appropriate state department or agency;

(c) A mimeographed note estimating fiscal impact be sent to the bill's sponsor and to each member of the committee to which the bill has been referred;

(d) Where committee amendments have substantial fiscal effects, the bureau quickly revise fiscal-impact information;

(e) When a bill is reported to the floor, fiscal-impact information not only be orally communicated by a committee chairman but it be included in a brief committee report or some other memorandum distributed to all members of the house;

(f) Members proposing amendments from the floor also be required to report their fiscal effects.

Legislative Post Audit

On one significant question there seems to be little controversy among legislators, experts, and attentive citizens throughout the nation. The audit of state financial transactions--including a review to assure that revenues have been collected in compliance with the laws, funds have been expended in accord with legislative intent and sound financial practice, the executive branch is carrying out only programs authorized by the legislature, and assets of the state are safeguarded and expended legally--is properly a legislative function. If "checks and balances" and legislative responsibility for appropriating funds are viable concepts,

then a legislative post audit is essential.⁴ Today, in three-quarters of the states a post audit is performed by a legislative agency.⁵ In Maryland, however, the state auditor is appointed by the governor and reports to an independently elected comptroller.

Virtually everyone agrees that a post audit in Maryland should be conducted under legislative auspices. In our survey of legislator opinion, we found that roughly nine out of ten members favored a legislative post audit. At issue is not whether the legislature should be performing this function but rather whether it should duplicate the work currently being done in the executive branch.

In its report the Wills Commission recommended the creation of a legislative auditor, in addition to the present state auditor (pp. 36-37). Shortly thereafter, a member of the House of Delegates introduced legislation to accomplish this by having a legislative office supplement the state auditor's functions. More recently, legislative thinking has moved

⁴ See, for example, Calvin W. Clark, A Survey of Legislative Services in the Fifty States (Citizens Conference on State Legislatures, April, 1967), pp. 42-47; Committee for Economic Development, Modernizing State Government (New York: CED, July, 1967), p. 35; and Council of State Governments, Mr. President...Mr. Speaker... (Chicago: The Council, 1963), pp. 2-4.

⁵ Council of State Governments, American State Legislatures (Chicago: The Council, 1967), pp. 52-62.

in the direction of eliminating, insofar as possible, the duplication of such services. In a joint report, the Committees on the Executive Budget and Taxation and Fiscal Matters proposed that the post-audit function be transferred by statute from the executive to the legislative branch (p. 13). Moreover, executive officials seem to agree. Testifying before the Committee on Taxation and Fiscal Matters, the present comptroller, Louis L. Goldstein, said that if the post-audit function comes under legislative control, rather than create a new legislative agency the existing office with its staff should be transferred to the General Assembly.⁶ Governor Spiro Agnew has taken the same position. Before his election he advocated a post audit under the sole authority of the legislature. Since then, he has expressed general agreement with the post-audit recommendations of the two interim committees of the General Assembly.

We, too, believe that duplication is unnecessary and that the post audit should be the legislature's responsibility. The executive branch would presumably continue its pre-audits and internal audits. It might also pursue some manner of post auditing on its own, although information from the legislative auditor would be made available to the executive on a regular basis. Exactly what the executive's needs will be is, of course,

⁶"Minutes of Meeting - No. 3," June 6, 1967.

for the executive to determine and, insofar as increased appropriations are involved, for the legislature to approve.

Assuming a transfer of the post audit to the legislature, another important question concerns the relationship of the new legislative office to the General Assembly and to other staff agencies. We believe that the office should constitute one of four separate bureaus in the Division of Legislative Services and should be accountable, as are other service agencies, to the Joint Committee on Legislative Policy and Management (Recommendations 54 and 55). Considering both the practical and symbolic significance of its examination of disbursements of all state funds for propriety and legality, it appears best to accord the Bureau of Post Audit and its director (the state auditor) status similar to that of other service agencies and bureau directors. Moreover, the audit should be done independently of budget analysis, even though information gathered by the former function is quite relevant to the latter one.

The Committee on the Executive Budget recommends that an audit office report directly to a proposed Joint Budget and Audit Committee (p. 14). Undoubtedly, responsibility for continuing supervision should reside mainly with the House Ways and Means and Senate Finance Committees and interim groups which consider matters of budgeting, appropriations, and finance. These groups would have greatest need for

information a post audit might furnish. Nevertheless, since the audit function goes well beyond satisfying the particular needs of certain committees, overall responsibility for proper staff performance should rest with the Joint Committee on Legislative Policy and Management, acting on behalf of the entire General Assembly.

More important than the organizational location of the office is the type of information it will provide. At the present time, the state auditor conducts what might be termed a "conventional audit." A staff of 52 auditors performs about 200 audits each year, covering the collection and distribution of funds by state agencies and by clerks of the courts, registers of wills and tax collections in the twenty-three counties and Baltimore City.

These functions should be continued by a Bureau of Post Audit under control of the legislature. In addition to examining the legality and procedural propriety of state financial transactions, a legislative post audit should also review the general performance of state departments and agencies to determine if they are expending their appropriations most efficiently and effectively to accomplish the intent of legislative policy. This is not only our view but also that of the Wills Commission (p. 36) and the Committees on the Executive Budget and Taxation and Fiscal Matters (p. 13).

It would seem that a Bureau of Post Audit, with no additional personnel, should be able to undertake a "performance" or "functional" audit as part of its regular activities. At the very least, the bureau, responding to requests from legislative committees and to the needs of Fiscal Research analysts could gather selected information which would be invaluable in legislative review of executive performance. There will have to be close cooperation between the Bureau of Post Audit and the Bureau of Fiscal Research, so that audit information is pertinent to budget review and legislative oversight. This cooperation, we believe, will be encouraged by the accountability of both bureaus to the Joint Committee on Legislative Policy and Management and by their close working relationships with session and interim finance committees.

The precise nature of a performance audit cannot be explored here. It would appear that legislation to accomplish the transfer of the office of auditor should allow legislators and the Bureaus of Fiscal Research and Post Audit some flexibility in developing criteria and practices that best answer the informational needs of the General Assembly.

In summation, with regard to a legislative post audit, we recommend that:

(79) The post-audit function be transferred by statute from the executive to the legislative branch;

(80) A Bureau of Post Audit, headed by the state auditor and including the present staff of his office, be one of several separate agencies in the Division of Legislative Services, accountable to the Joint Committee on Legislative Policy and Management and working with the finance committees and the Bureau of Fiscal Research;

(81) In addition to examining the legality and procedural propriety of financial transactions by state agencies, the Bureau of Post Audit collect information which will aid the General Assembly in determining whether expenditures of appropriations are efficiently and effectively accomplishing the legislature's policy objectives.

Presentation of the Executive Budget

A good portion of the budgetary information upon which the General Assembly can draw is presented in the budget document. Together with the Governor's Budget Message, the Maryland State Budget constitutes the basic material with which legislators must work. Even with staff assistance, members of the House and Senate cannot hope to comprehend all the voluminous and detailed data contained in the State Budget. What is essential, however, is that the most meaningful information be presented as clearly as possible by the executive in justification of his annual requests.

Budget presentation is the responsibility of the executive branch. In recent years, the budget document has been improved to a considerable

extent. Nevertheless, there seems to be room for further improvement. Our survey revealed that only about one-third of the members of the General Assembly were dissatisfied with adequacy or clarity of information presented. But over half the members of the Ways and Means and Finance Committees, who are most familiar with budgetary matters, were critical of information conveyed in the basic document. We believe that a few changes would be extremely helpful, not only to the legislature but to the governor as well.

General organization of the budget seems to be satisfactory. The Maryland budget is organized to emphasize program activities, but details are presented for each item of expenditure. This dual purpose budget recognizes the advantages of a program approach, stressing activity and goals to be attained by spending particular amounts of public funds. It also permits legislators to examine line-item entries for the purpose of controlling expenditures and relating them to applicable programs.

Although the budget document presently includes descriptive information on program and performance, in many instances it is imprecise and incomplete. It should contain, at the least, brief narrative explanations of program purpose, administrative ends and means, past accomplishments, and future objectives. Ideally, there should be explicit program appraisal criteria by which accomplishment might be measured.

In designing new programs or revising old ones, the executive and legislature should attempt to develop sets of explicit measures of performance. Then, it would be possible for the annual budget to present better indications of achievement according to established and reasonable standards. We do not think that this can be accomplished quickly. Performance budgeting--an extension of the program principle presently observed in Maryland--requires realistic standards of achievement and, perhaps, some common denominator for measuring benefits of expenditures of different types against their costs. In practice, this is extremely difficult.⁷ There is no point in presenting measures which are irrelevant or misleading. Still, it is worthwhile for additional energy to be devoted to the development of useful performance criteria.

A few other changes may be effected with far less difficulty. Each one, we believe, will help the staff of Fiscal Research, the finance committees, and rank-and-file legislators with the budgetary tasks confronting them.⁸

⁷ For a brief and excellent comparison of basic approaches to budgeting, see Tax Foundation, State Expenditure Controls, pp. 28-35.

⁸ These suggestions are based largely on the report of the Tax Foundation, cited above, and the Executive Budget document presently in use in Wisconsin.

First, the budget document should contain an introductory explanation setting forth a brief description of the type of budget employed in Maryland, instructions on how the budget book may be used, and a glossary of important terms.

Second, expenditure information should be provided not only for the previous fiscal year but for a prior period of at least three years. Only then will it be possible for members of the General Assembly to discern trends in expenditure levels for different state programs and agencies.

Third, the budget document should not only present the fiscal year request but should also give estimates of expenditures beyond the forthcoming fiscal period. Few states do this now, but the practice would permit legislators to appraise program budgets in terms of medium-range projections.

Fourth, the budget document, to be most informative, should contain requests made by state agencies as well as the governor's recommendation. Today, the budgets of about four-fifths of the states do include an agency's original requests. This practice, if followed in Maryland, would be extremely valuable to committee deliberations.

Fifth, the proposed budget should distinguish among program amounts sought for continuing the present level of services, changing

the operating level of services, and providing new and different services. For example, the Wisconsin budget presents for each program a "budget change summary," which specifies an agency's requests and the governor's recommendations, both narratively and statistically, by (a) total change, (b) increase or decrease to continue at present operating level, (c) increase or decrease to change operating level, and (d) increase for additional services.

Sixth, in addition to the budget document and the budget in brief, the governor should offer the legislature further guides to his budget recommendations. A governor, in formulating the executive budget on the basis of agency proposals, will inevitably have to make a number of choices. We suggest that the Maryland governor distribute to members of the legislature a publication outlining the major policy considerations implicit in his budget recommendations. This should include brief factual background data on significant policy areas and the governor's justifications for specific budgetary policy decisions. Such a practice would help the legislature understand the chief executive's reasoning and would encourage deliberation of major policy matters in review of the budget.⁹

⁹ Our proposal is patterned after the booklet, issued in Wisconsin, "Policy Considerations: Governor's 1967-69 Budget."

In order to improve the quality of budgetary information provided to the legislature by the executive branch, we recommend that:

(82) The budget document contain more complete and, if possible, precise information on program purpose, administrative ends and means, past accomplishments, and future objectives, and particular attention be devoted to the development of meaningful criteria of program performance;

(83) The budget document include the following types of information:

(a) An introductory explanation, mainly to facilitate understanding of the organization and terms of the budget;

(b) Expenditure information for a period of at least three prior years;

(c) Estimates of expenditures beyond the forthcoming fiscal period;

(d) Requests made by state agencies, as well as the governor's budgetary recommendation;

(e) A distinction among program amounts sought for (1) continuing the present level of services, (2) changing the operating level of services, and (3) providing new and different services;

(84) A document to accompany the budget explain major policy considerations and decisions implicit in the governor's budgetary recommendations.

Implementation of these recommendations, as well as those offered in Chapter VI, should enhance intelligent consideration of the budget. This does not mean that governmental expenditures will necessarily be reduced. For, as one executive official commented: "The more you know about budgeting, the more you appropriate." It does mean that legislative decisions will be based on relevant information, professional advice, and a competence developed through a continuity of program and budget concern.

In view of the necessity of a legislative division of labor, members of the General Assembly will have to continue to rely on the work of specialized committees. This is certainly the case today. One delegate admitted: "I take on complete faith everything recommended by the chairman of Ways and Means, that is, unless a specific issue is brought to my attention." However, we believe that strengthening the finance committees and fiscal staff will inevitably benefit not only committee members but rank-and-file legislators as well. Additional and more meaningful information will be at their disposal, so that they can evaluate the activities and budgetary recommendations of their colleagues.

Furthermore, this same information will be available to the people of Maryland, so that they can judge the programs and performance of the executive and legislative branches of government. The General Assembly

must keep citizens informed, since the legislature is responsible and accountable to the people of the state. It is to the mutual obligations of the legislature and the public that we now turn.

CHAPTER VIII. RECIPROCAL OBLIGATIONS

For generations now, state legislatures have borne the heavy yoke of abuse. Every session is open season on lawmakers. Two hundred years ago, when the Massachusetts legislature convened, one citizen warned his neighbors to "close your door tightly; the legislature is convening."¹ Recently, a political scientist and former state legislator, concluding a rather gloomy account of the contemporary legislative scene, wrote: "Without capable legislators, and lacking a state political ethos that would sustain them, the state legislature will wither away, or perhaps will come to resemble another House of Lords, full of pomp and empty of meaning."²

Despite numerous difficulties, we believe that legislatures will survive and have a good chance to prosper. But prosperity depends upon how legislators respond to challenges which presently confront them and whether they and the citizens they represent fulfill their obligations to one another.

¹Quoted in Albert J. Abrams, "Scapegoatism and the Legislatures," State Legislatures Progress Reporter (November, 1965).

²Duane Lockard, "The State Legislator," in Alexander Heard (ed.), State Legislatures in American Politics (Englewood Cliffs, N. J.: Prentice-Hall, 1966), p. 125.

Obligations to the Public

The principal obligations of the General Assembly are to formulate and decide on state policies and review the performance of the administration. All of the proposals we have suggested previously are designed to improve legislative conduct along these lines. If the General Assembly revitalizes its committees, equips itself with staff and information, and provides for improved management and coordination, it will certainly be moving in the direction of fulfilling its responsibilities to the people of Maryland. Still, a few other measures should be undertaken, ones which we have not directly considered above.

The General Assembly has an educational responsibility to citizens of the state. If the people have a right to know, then the legislature has the obligation to inform. We do not suggest a campaign of proselytization aimed at sweetening the legislature's image. Rather, we feel that if citizens learn more about the job being done by the legislature, the public will begin to appreciate problems of representative government and the importance of the functions the General Assembly performs. As public awareness increases, legislative esteem will rise and legislative image will change for the better.

Most of the legislators with whom we talked were conscious of the importance of communicating with the public. Three out of four of

those surveyed felt that the legislature must improve procedures for informing the press and citizens about what the General Assembly was doing. Many of our recommendations--mainly those expanding staff services, increasing the scope of budgetary materials, providing earlier notification of hearings, and requiring reports by session and interim committees--are aimed not only at giving senators and delegates additional information. They are also intended to furnish the press and public the kinds of materials they might use in keeping abreast of legislative activity and problems of governmental policy. We are confident that they will.

Here, an additional suggestion is appropriate. In order to facilitate communication and the continuing dissemination of information to press and public, we propose the establishment of a Legislative Office of Public Information. Such an office might initially be staffed by one professional and one secretarial employee of the General Assembly. On the one hand, the Legislative Public Information Officer would have to maintain continuous and close contact with members of the General Assembly, the four service bureaus, and the offices of the Clerk of the House and the Secretary of the Senate. On the other hand, he would also have to be alert to the needs of news media and various citizen groups. Since its relationships would be so wide ranging, the office

probably should come under the direct supervision of the Joint Committee on Legislative Policy and Management rather than be located in any one of the legislative service bureaus.

We do not anticipate that the office will be able to provide special service for each and every legislator. Surely, it could not be expected to draft press releases for individual members. It would, however, try to ensure that the press and public receive legislative information and that the General Assembly have at its disposal the most appropriate channels for communicating with the people of Maryland. A weekly legislative report might be prepared for news media and local groups; legislative speakers might be scheduled for appearances before civic organizations and in elementary and secondary schools as well as universities; information might be gathered in response to requests from students and researchers alike. The Public Information Office could act as a clearing house and communications center, denying ready access to neither press nor public, but instead serving to bring together those people who have information and those who might benefit from it.

If the Maryland General Assembly is not held in as high esteem as it deserves, it is not only because citizens lack information, understanding, and empathy. It is partly the legislature's own fault. The aroma of scandal has permeated most legislative chambers. Maryland

is no exception. Venality may not be widespread, but even the suspicion of corruption can be most harmful to a legislature's status and effectiveness.

On the matter of principle, one seldom hears disagreement. Group after group throughout the nation has urged the adoption of conflict of interest statutes. In Maryland the Wills Commission recommended that "a strong, viable conflicts-of-interest law applicable to members of the General Assembly" be enacted (p. 47). Our survey of legislator opinion showed substantial agreement. Practically everyone interviewed favored rules or legislation barring conflicts of interest by members of the Assembly.

Devising laws which effectively define and control conflicts of interest, without at the same time crippling the representational system, is the real problem. The Maryland legislature has been trying to develop legislation for several years now, and presently a bill drafted by the attorney general's office is being considered by a subcommittee of the Legislative Council. On this matter we have no specific suggestions, but would generally urge that the General Assembly, its leadership, and its committees continue to devote intensive efforts to the formulation of effective means to preclude legislative conflicts of interest.

In addition, we feel that the General Assembly should give attention to the development of a legislative code of ethics, so that ethical behavior will be self-imposed and conscientiously enforced by legislative leaders

and members. This will not be easy. But serious consideration and discussion of the problem will likely produce their own rewards. The development of policies to govern the conduct of members, officers, and employees of the legislature should be a primary responsibility of the Joint Committee on Legislative Policy and Management (Recommendation 49 (f)).

In sum, we think that the General Assembly can take further steps to fulfill its obligations to the people of Maryland. Therefore, we recommend that:

(85) A Legislative Office of Public Information be created to facilitate the flow of communications from the General Assembly to the press and public, denying legislative access to none but serving to bring together those people who have information and those who might benefit from it;

(86) The General Assembly continue to devote intensive efforts to the formulation of effective means to control legislative conflicts of interest and the Joint Committee on Legislative Policy and Management turn its attention to developing and then enforcing a legislative code of ethics.

Obligations to the Legislature

Assuming that the General Assembly take its responsibilities

seriously enough to begin major organizational overhaul, the people of Maryland should be willing to bear costs which are necessarily involved. Not only must citizens inform themselves and participate in legislative affairs to a greater extent. They must also render to the General Assembly the support it vitally needs if modernization and strengthening are to be accomplished. As in so many other states, the Maryland legislature has never been provided adequate assistance. More accurately, as Terry Sanford writes, state legislatures "have never provided for themselves the clerical and research support they need, and this fact is a reflection of public attitudes."³

In previous chapters, we have spent considerable time discussing requirements for professional staffing. Whatever the expense, increasing staff resources cannot be postponed. People must realize that government is too complex and too important to condone inadequate staff or second-rate information and advice.

Although we have paid scant attention to secretarial assistance, this too is a problem. Undoubtedly, increased secretarial help will have to be made available to committees if they are to function on a year-round basis. More full-time

³Storm Over the States (New York: McGraw-Hill, 1967), p.33.

secretaries will also be required if legislative service agencies are to perform the types of duties we have suggested. Finally, individual members of the General Assembly certainly deserve some help, not only during the session but throughout the interim period too.

Recently, the legislature took an important step in this area. During the 1967 session, it provided interim expense accounts for each senator and delegate. These allowances range from about \$1,000 for a delegate to \$5,000 for the presiding officers of each house. Under such a system, each legislator has some degree of flexibility in using this special account to meet his own needs. Many members, instead of employing a part-time secretary, prefer to have regular secretaries in their private businesses or professions handle legislative correspondence. These members now can reimburse their businesses or offices for the percentage of time the secretary spends on legislative affairs, while others can employ special assistance.

As long as legislators are required to verify costs of secretarial help, office space, and other appropriate services, the expense allowance procedure is most appropriate. We support it. We also suggest that the General Assembly, and primarily the

Joint Committee on Legislative Policy and Management, maintain constant scrutiny of the ways in which these allowances are used and the need for augmenting them periodically as legislative work increases.

Other problems must also be met. Office space, equipment, and facilities are sorely lacking. In responding to our interview survey, virtually every member of the General Assembly mentioned the need for additional space for committees and legislators. A questionnaire distributed by the Wills Commission elicited the same response (pp. 55-56). A majority of legislators indicated that a lack of physical space hindered them in the performance of their duties. Most agreed that each senator should have an office and groups of three or four delegates should share one. A majority responded that they lacked equipment, including typewriters, telephones, filing cabinets, and annotated codes. All of those responding deplored the lack of individual committee rooms and emphasized that poor scheduling of hearings resulted.

Improvements in physical working conditions for state legislatures are underway across the country. At the present time, about one-third of the states either have proposed or presently are constructing new facilities for their legislatures. In Maryland,

preliminary approval was recently given to a proposal for the construction of a new General Assembly office building in Annapolis. Since we believe that state legislators and legislative committees must be provided adequate offices, we support efforts to expand legislative facilities. Furthermore, we urge that the proposed Joint Committee on Legislative Policy and Management exercise continuing review of the General Assembly's requirements for physical facilities and office equipment (Recommendation 49 (f)).

Finally, the people of Maryland must recognize that their representatives are underpaid. Demands on the time of members of the General Assembly have grown. The burdens of legislative service have increased. Compensation for state legislators has not kept pace. Not only in Maryland but in most states, legislators receive far less compensation than other governmental officials. This is supposedly because the job of the legislator is part-time only. Yet, while the average legislator may spend only one-third to one-half of his time on state affairs, his responsibility to represent constituents continues the year round. Moreover, his salary today does not compensate for the time he takes from his business or profession during a legislative session, let alone for the work he does the rest of the year.

There is general agreement among experts on state government

that legislative salaries should be raised.⁴ Otherwise it will be impossible to attract able people to the legislature. And it will be difficult to retain those who are already there. In our opinion, financial inducements are not the major concern of those pursuing legislative careers. Nonetheless, it is only fair that salary levels permit any citizen to serve without incurring severe financial loss. This is not the case in Maryland today.

As far as compensation for Maryland legislators is concerned, two important points must be mentioned. First, the legislature should be responsible for determining by statute the salaries of members. Second, present salaries should be substantially increased.

The trend is to remove from state constitutions provisions regulating the salaries of legislators and other public officials. Legislative salaries now are regulated by constitutional provisions in twenty-two states as compared with twenty-eight two decades ago. In Maryland an amendment to remove salaries from the Constitution

⁴American Assembly, Final Report of the Twenty-Ninth American Assembly, 1966, p. 7, and Council of State Governments, American State Legislatures in Mid-Twentieth Century, April 1961, p. 2.

was defeated by the voters in November, 1966. Since then, the Wills Commission recommended that the establishment of legislative salaries by constitutional provision be eliminated (p. 16). Our survey showed that three out of four legislators agreed, a few were undecided, and only about 15 percent were opposed.

The Constitutional Convention Commission in its draft recommendation provides that "the members of the General Assembly shall receive such salary and allowances as may be prescribed by law" (Section 3.08). It explains that the freezing of salaries in the Constitution makes it extremely difficult to adjust compensation to meet changing demands on time, changes in the cost of living, and changing standards as reflected by business and industrial salaries. For instance, legislative salaries did not change during the sixteen-year period from 1949 to 1965, despite changes in work load, levels of private compensation, and the steep increase in the cost of living.

For those who are concerned lest legislators raise their salaries without restraint, there is little evidence to support such fears. In the twenty-eight states where salaries are determined by law, compensation is on the average higher but still far from generous. This is because legislators are extremely sensitive to public opinion when it comes to raising their own salaries. Furthermore, as the

Constitutional Convention Commission argues:

The fact that legislators must be reelected every four years provides an ample safeguard against abuse of the power of the General Assembly to set the salary of legislators. In establishing the compensation of its own members, the General Assembly must act publicly. Not only are the proposed salaries set out specifically in the budget, but they must be prescribed by law. This law, of course, receives the full scrutiny of the public during the enactment process and it is subject to the governor's veto (pp.60-61).

For all of the reasons above, we believe it imperative that the Constitutional Convention draft a document which places salary decisions where they properly belong--with representatives in the General Assembly. Therefore, we strongly support recommendations by the Wills Commission and the Constitutional Convention Commission that legislative salaries be prescribed by law.

What then should the level of compensation be? At the present time, each member of the General Assembly receives an annual salary of \$2,400. This is supplemented by a \$25 payment for each day the legislature is in session. Given seventy days at Annapolis, base pay is now \$4,150 a year, with the two presiding officers receiving an extra \$250. Members are paid an additional \$35 per diem for attending Legislative Council and committee meetings during the interim period.

People with whom we have spoken are virtually unanimous in advocacy of higher legislative salaries. Only two of fifty-nine members interviewed in our survey felt otherwise. Governor Agnew has repeatedly asserted that Maryland's legislators are grossly underpaid and has suggested that increases are in order. So has Senator Joseph Tydings. More than a year ago Governor Millard Tawes appointed a committee to study and make recommendations on executive and legislative compensation. This committee of distinguished Maryland citizens recommended compensation of \$6,500 per year, with no pay of any type to supplement this amount during the session. It also suggested that the presiding officers be paid \$1,500 more than the base figure and the chairmen of the Judicial Proceedings and Finance Committees of the Senate and the Judiciary and Ways and Means Committees of the House be paid \$1,000 more.⁵ The Wills Commission, after its investigation, recommended \$6,500 as an annual salary, called for the abolition of per diem payments, and suggested that the General Assembly consider paying leaders and major committee chairmen somewhat more (pp. 16-17).

⁵Report of Committee on Executive and Legislative Compensation, March, 1966, pp. 9-14.

About one-third of legislators who were interviewed in our survey agreed on a salary of about \$6,500 or \$7,000. Two-thirds felt substantially higher salaries were justified in view of the work they were doing. Assuming legislative sessions of ninety instead of seventy days and serious efforts by the General Assembly to strengthen itself, we believe compensation of \$6,500 to be inadequate. A base salary of \$8,500 is fairer, and even it would hardly be extravagant. In fact, considering sessional work only and calculating payment per day, it is almost exactly the equivalent of the \$6,500 recommended by the Committee on Executive and Legislative Compensation. We propose, therefore, a basic salary of \$8,500.

In view of the tremendous responsibilities of legislative leaders and committee chairmen, both during the session and in the interim, extra compensation would seem to be in order. We suggest that the Speaker of the House and the President of the Senate be paid \$10,500 and the majority and minority leaders and the chairmen of all major committees (three which presently exist in the Senate and the five we have recommended in the House) be paid \$9,500. Per diem payments of \$25 should be eliminated.

There will still have to be a method of compensating legislators

for committee work during the interim. If our proposals for joint interim committees are adopted, it is particularly important to reimburse those members who will spend increased time and energy on legislative affairs. The present \$35 per day pay hardly compensates many members who suffer financial loss as a result of frequent absences from their offices or businesses in order to deliberate questions of state policy. But at least it is some reimbursement. About one-quarter of those legislators interviewed in our survey thought that, even if basic salaries were raised, per diem payments during the interim should be increased. Another three-fifths thought per diem payments should remain the same. We agree with the latter group and with the Committee on Executive and Legislative Compensation, and urge the continuation, for the time being at least, of \$35 per diem for interim work on legislative committees.

In order that the General Assembly may equip itself to perform as has been recommended throughout this report, we recommend that:

(87) The legislature employ sufficient secretarial personnel to support the work of standing and interim committees, to assist legislative service agencies, and to aid members during the course of legislative sessions;

(88) The Joint Committee on Legislative Policy and Management carefully oversee the expense allowances of legislators and continuously assess the need for augmenting them periodically as legislative work increases;

(89) The General Assembly, primarily through the Joint Committee on Legislative Policy and Management, exercise constant review of requirements for facilities and office equipment and take whatever action appropriate to meet its physical needs;

(90) The new Maryland Constitution provide that the members of the General Assembly shall receive such salary and allowances as may be prescribed by law;

(91) As soon as constitutionally feasible, the legislature should enact a compensation bill providing:

(a) A basic salary of \$8,500 for members of the General Assembly;

(b) Salaries of \$10,500 for the Speaker of the House and the President of the Senate and \$9,500 for the majority and minority leaders and chairmen of all major committees;

(c) The elimination of per diem during the legislative session, but continuation of \$35 per diem payments for committee work during the interim.

The Costs of Representative Government

In the period 1964-65, fifty state legislatures, with a total of 7,782 members, spent \$168,274,000 in support of themselves. During the same two-year period the United States Congress, with 535 members, spent \$316,681,000, or about twice as much, on itself. Some difference in expenditures is understandable, but why the huge disparity? The Citizens Conference on State Legislatures offers an obvious explanation: "Although some might maintain that Congress spends too much on itself, a more reasonable conclusion would be that the state legislatures spend too little."⁶

No one can justifiably accuse citizens or legislators in Maryland of lavishing on the General Assembly the level of financial support a strong legislature undeniably needs. In this respect, Maryland can probably take comfort from the fact that it is no more negligent than some other states. But, in fact, it is making less of an effort to support its legislature than most states, and not only obvious ones like California and New York.

Penuriousness manifests itself in various ways. Take the

⁶Calvin W. Clark, A Survey of Legislative Services in the Fifty States (Citizens Conference on State Legislatures, April, 1967), p. 1.

case of the individual legislator. In the House of Delegates members have loose-leaf notebooks at their desks in which to put bills that are distributed to them as the session proceeds. One delegate informed us that at the conclusion of the 1967 session he and his colleagues were told they could keep the bills, but had to return the notebooks so that they might be used again. Or take the case of the entire General Assembly. We have already shown in Chapter V that Maryland compares unfavorably with smaller as well as larger states in terms of expenditures on legislative staff and services. And it is no higher than average in salaries paid to legislators.

"Maryland's Legislature is spending too little on itself and, therefore, inadequately provides for its own needs," is one conclusion of the Wills Commission report (p. 57). On this point, there can be little disagreement. The financial support given the General Assembly is lower in Maryland than in almost four-fifths of the states in the nation. On the basis of per capita legislative expenditure, which is one of the best measures of support, Maryland in 1965 spent less than thirty-seven other states. In that year a population of 3,432,000 spent \$2,431,000 on the General Assembly, which is slightly less than \$0.71 per person residing in the state. Perhaps more indicative, in 1959 Maryland ranked thirty-second in

per capita expenditures on its legislature. Six years later it had fallen to thirty-eighth in the state rankings.

Comparison can be made even more meaningful by omitting states which are either larger or smaller than Maryland. Taking only those whose populations are similar--the medium-sized states of the nation--we obtain a clear picture from data presented in Table 11. Among fourteen states, with populations within one million persons of Maryland's, ten rank above and only Alabama, Kentucky, Virginia, and Tennessee rank below Maryland in per capita legislative expenditures. Yet, Maryland certainly has the financial ability to pay. In terms of per capita personal income, it ranks tenth in the nation. Significantly, with the exception of Connecticut, every other comparable state which spends more per capita on its legislature has lesser capacity to do so. And the four spending lower amounts are among the poorer states of all fifty.

If states are generally negligent in supporting their representatives, Maryland is particularly remiss. It possesses the ability to make a substantially greater effort. By increasing per capita expenditures from \$0.71 to \$1.21, more than one and one-half million dollars could be given over to legislative improvement. And still Maryland would rank below one-fourth of the states in terms

TABLE 11. THE SUPPORT OF STATE LEGISLATURES BY MEDIUM-SIZED STATES

State	Legislative Expenditure		Personal Income	
	Per Capita 1965	Rank Per Capita 1965	Per Capita 1964	Rank Per Capita 1964
Georgia	\$1.22	12	\$1,943	41
Louisiana	1.05	18	1,877	44
Oklahoma	1.05	19	2,083	37
Iowa	1.03	20	2,376	24
Washington	0.92	24	2,635	14
Missouri	0.87	28	2,600	17
Minnesota	0.86	29	2,375	25
South Carolina	0.83	33	1,655	48
Connecticut	0.82	34	3,281	2
Wisconsin	0.80	36	2,490	21
Maryland	0.71	38	2,867	10
Alabama	0.64	40	1,749	47
Kentucky	0.57	43	1,830	46
Virginia	0.30	49	2,239	30
Tennessee	0.15	50	1,859	45

Source: State Legislatures Progress Reporter (August-September, 1966) and U.S. Bureau of the Census, Compendium of State Government Finances in 1965.

of legislative support. With an increase of only \$0.29, bringing expenditures to one dollar per person, approximately one million dollars could be devoted to strengthening the General Assembly. And still the state would be spending proportionately less than about twenty others, including not only California, Massachusetts, and New York, but also Georgia, Louisiana, Oklahoma, Iowa, Arizona, Delaware, Kansas, Oregon, and West Virginia. With relatively little sacrifice, the people of Maryland can provide funds necessary for legislative reorganization, increased staff, improved information, expanded facilities, and higher salaries. Therefore, we strongly urge that:

(92) The people of Maryland recognize that legislative improvement is necessary, appreciate the additional expenditures required, and evidence a willingness to bear the costs of strengthening the General Assembly.

CHAPTER IX. TOWARD A STRONGER GENERAL ASSEMBLY

Each one of the recommendations in this study is designed to strengthen the General Assembly. Each one, we strongly believe, should take its place on the agenda of reform and be considered seriously by legislators and citizens of Maryland.

Some of these proposals should arouse little controversy. Others quite properly will engender considerable debate. A number, if the legislature so decides, can be put into effect quickly. Several, however, must wait upon constitutional revision. A few entail no cost, some only little. But many, and particularly several of the most critical recommendations, depend upon an increase in legislative expenditures.

We have concentrated on those areas which legislators themselves think most in need of improvement. As far as we can determine, their diagnoses are generally correct. Thus, we have stressed and prescribed for a longer legislative session, the split-session technique, a more equitable distribution of work in the House, joint committees operating during the interim, committee and leadership staffing, the establishment of a year-round managerial committee, the reorganization of legislative service bureaus, more intensive and continuing review of budgetary policy, and higher legislator salaries.

The adoption of many of these proposals is not contingent on the adoption of others. For example, interim committees may be established without committee consolidation in the House. Others are inextricably interwoven. For example, an effective fiscal note procedure is possible only if the Bureau of Fiscal Research has sufficient personnel to do the job.

Since we have attempted to view the General Assembly as an operating political system, where a change in one structure or function affects others, we intend that our recommendations fit logically together. In concluding this study, we list all in the order in which they were originally advanced.

To improve legislative scheduling and procedures (Chapter II), we recommend that:

(1) The new Constitution limit the length of the regular session of the legislature to ninety days;

(2) The governor may convene a special session of the legislature at any time and must convene a special session upon the request of three-fifths of all the members of each house, but that such sessions be limited to not more than thirty days;

(3) The General Assembly adopt procedures permitting any member or member-elect to pre-file bills with the secretary of the Senate and the chief clerk of the House after November 15 of each year;

(4) The new Constitution not restrict the General Assembly's authority to determine deadlines for the introduction of legislation (thus deleting Article 3, Section 27 of the present Constitution);

(5) Rule 35 of the Senate and House of Delegates be altered to provide for either of the following:

(a) If the regular session is limited to seventy days, no bill shall be introduced in the Senate/House during the last thirty-five calendar days of a regular session, unless two-thirds of the members elected thereto shall so determine by affirmative vote of yeas and nays, and any bill so introduced shall be referred to the Committee on Rules, Procedure, and Organization;

(b) If the regular session is extended to ninety days, no bill shall be introduced in the Senate/House during the last forty-five calendar days of a regular session, unless two-thirds of the members elected thereto shall so determine by affirmative vote of yeas and nays, and any bill so introduced shall be referred to the Committee on Rules, Procedure, and Organization;

(6) Members of the Committees on Rules, Procedure, and Organization pursue the job of screening with utmost diligence,

referring to standing committees only those bills whose late introduction can be properly justified;

(7) The General Assembly, by joint resolution, request the governor to make every effort to have executive bills introduced during the opening days of the session so that the legislature has ample time to give them the consideration they deserve;

(8) The present constitutional provision which allows either house to consider other appropriation bills, but prohibits final action by both houses until passage of the budget, be retained;

(9) The legislature determine, either by rule or statute, a deadline date for final passage of the budget, without provision for the budget as presented automatically becoming law;

(a) In the case of a seventy-day session, the budget be enacted within fifty days of its submission;

(b) In the case of a ninety-day session, the budget be enacted within sixty days of its submission;

(10) Particularly if the legislative session is extended to ninety days, the General Assembly try a split-session technique-- convening for two weeks for organizational and introductory purposes, recessing for three weeks to enable committees to conduct day-long hearings on the budget, and then reconvening for committee and

floor work during the remaining eight weeks;

(11) The General Assembly adopt a consent calendar and by legislative rule provide procedures, whereby noncontroversial bills can be enacted expeditiously and controversial ones will be screened out at some stage in the process;

(12) The Senate alter its rules on motions to include as 61.7 a provision similar to that of the House of Delegates: For the previous question. The motion is not debatable, and if carried shall preclude all further debate and bring the Senate to a direct vote upon the immediate question before it. The motion for the previous question may be made on any debatable motion before the Senate;

(13) By constitutional provision or statute, means be devised to relieve the General Assembly of the burden of considering local legislation and to permit purely local matters to be decided at the county or municipal level.

To strengthen the legislature and its committees in policy-making and review of administrative performance (Chapter III), we recommend that:

(14) Senate committees remain organizationally as they are now, with three major legislation committees (excluding from

consideration auxiliary committees such as Rules, Entertainment, Executive Nominations, and the Joint Committee of Investigation), each to have a membership as indicated:

Finance (16 members)

Judicial Proceedings (13 members)

Economic Affairs (13 members)

(15) As is presently the case, each member of the Senate serve on one, but no more than one, of these major legislation committees;

(16) House committees be consolidated, so that there are five major legislation committees (excluding from consideration auxiliary committees such as Joint Committee of Investigation, Rules, and Protocol and Entertainment), each to have a membership as indicated:

Ways and Means (35 members)

Judiciary (35 members)

Economic Affairs (24 members)

State Affairs (24 members)

Health, Education,
and Welfare (23 members)

(17) Each member of the House serve on one, but no more than one, of these major legislation committees;

(18) Chairmen and members of legislation committees establish subcommittees and designate subcommittee chairmen, to be consented to by the House or Senate during the early days of the session, or, in special cases, later on;

(19) At the discretion of the committee chairman, subcommittees be referred bills for study and recommendation to the full committee;

(20) Presiding officers of the House and Senate define, as nearly as possible, areas of responsibility and refer bills falling within these jurisdictions to appropriate legislation committees;

(21) Presiding officers of the House and Senate assign bills authorizing new or substantially altered programs to the substantive committees in whose jurisdiction they properly fall as well as to the Ways and Means and Finance Committees which must decide on appropriations;

(22) The General Assembly, through a proposed Joint Committee on Legislative Policy and Management, examine during the interim period of 1968 the possibility of incorporating into House and Senate rules provisions governing committee jurisdictions and the referral of bills with expenditure implications;

(23) The Legislative Council, as it now exists and as provided for in Article 40, Section 27 of the Code of Maryland, be abolished;

(24) The new Constitution include a provision, such as the one proposed by the Constitutional Convention Commission, providing that each house may permit its committees to meet between sessions of the General Assembly;

(25) Even before adoption of a new Constitution, the General Assembly establish three joint interim committees, each of which parallels and draws members from committees of the House and Senate;

(26) These three joint interim committees be organized in the following manner:

A Joint Committee on Finance, with 32 members, 21 from House Ways and Means, and 11 from Senate Finance;

A Joint Committee on Judiciary, with 32 members, 21 from House Judiciary and 11 from Senate Judicial Proceedings;

A Joint Committee on Economic and Social Affairs, with 44 members, 33 from House Economic Affairs, State Affairs, and Health, Education, and Welfare and 11 from Senate Economic Affairs;

(27) Each joint interim committee establish standing subcommittees, which would conduct studies and draft proposals for review by the full committee;

(28) Joint interim committee decisions, which authorize investigations or adopt reports and proposed legislation, be contingent

on agreement by majorities of both House and Senate members;

(29) Chairmanships and vice-chairmanships of joint interim committees rotate annually or biennially between the chairmen of House and Senate committees; subcommittee chairmanships rotate as well, so that combined chairmanships during any given period are divided between the houses as equally as practicable; and the Speaker of the House designate in alternate periods the chairman of the Joint Committee on Economic and Social Affairs;

(30) Appointments to joint interim committees be made by the chairmen of the relevant standing committees, with the advice and consent of the Speaker of the House or the President of the Senate;

(31) Special interim committees be established if circumstances so warrant, and their creation, membership, and responsibilities be within the authority of the Joint Committee on Legislative Policy and Management;

(32) Insofar as possible, no member, with the exception of those serving on the Joint Committee on Legislative Policy and Management, serve on more than one interim committee;

(33) Each joint interim committee establish an advisory panel, composed of public members, which can be drawn upon for information and advice;

(34) Joint interim committees meet in plenary session primarily to organize, make assignments, and deliberate on the work done by subcommittees, but subcommittees meet more frequently in order to accomplish the tasks assigned.

To provide adequate committee resources, procedures, and powers and a system of overall accountability (Chapter IV), we recommend that:

(35) Each major committee of the House and Senate (including Finance, Judicial Proceedings, and Economic Affairs in the Senate and Ways and Means and Judiciary, as well as the proposed committees on Economic Affairs, State Affairs, and Health, Education, and Welfare in the House) be authorized to employ a qualified administrative assistant, as well as a secretary, on a full-time basis throughout the entire year;

(36) During interim periods, committee staff be assigned to the appropriate joint interim committee to assist in its work;

(37) The administrative assistant be responsible to the committee through the office of chairman;

(38) Chairmen of each major committee of the House and Senate nominate candidates for administrative assistant positions and nominations be reviewed and decided on by the Joint Committee on Legislative

Policy and Management;

(39) The Joint Committee on Legislative Policy and Management determine appropriate salary levels--generally comparable to those of other professional staff of the legislature--for administrative assistants with varying qualifications and experience;

(40) Committee hearings be improved by requesting witnesses, particularly those from the executive branch, to submit written testimony in advance;

(41) Subcommittees of House and Senate hold joint hearings whenever feasible;

(42) Announcements of hearings be made at an earlier date than presently and notification of interested individuals and groups be the responsibility of the committee;

(43) Committee chairmen have minutes of each meeting taken and, at their discretion, have transcripts made of testimony on major bills;

(44) The House amend Rule 40 to provide that lists prepared by committees on action taken at each meeting be distributed to all members of the House;

(45) Committees, operating during the session, prepare brief reports on significant bills, explaining their recommendations on amendments and presenting their arguments for or against passage;

(46) Committees, operating during the interim, prepare detailed reports on studies they have conducted and proposals for legislative action;

(47) The House and Senate adopt a rule requiring that each committee and joint interim committee adopt their own rules of procedure at the beginning of a legislative session or interim period, that a majority of members of each committee shall constitute a quorum, and that a majority of such quorum has the power to decide measures before the committee;

(48) Committees have full investigative powers, including the power to subpoena witnesses and receive testimony under oath, and the Joint Committee of Investigation be abolished;

(49) Legislation be enacted to establish a Joint Committee on Legislative Policy and Management, providing that:

(a) It be composed of eight members of the Senate and eight members of the House--to include ex officio from the Senate, the President, Majority Leader, Minority Leader, the chairmen of the Finance and Judicial Proceedings Committees, and additional members to be appointed by the President, and ex officio from the House, the Speaker, Majority Leader, Minority Leader, the chairmen of the Ways and Means and Judiciary Committees, and additional members to be appointed by the Speaker;

(b) Two members from the Senate and two from the House represent the minority party;

(c) In alternate years or biennia, the Speaker of the House and the President of the Senate preside as chairman, while the other serve as vice-chairman;

(d) The Committee organize during the opening days of the session and be required to meet at least ten times throughout the year;

(e) Minutes of each meeting be taken and distributed to all members of the General Assembly;

(f) Duties and responsibilities of the Committee include: decisions on the nominations of administrative assistants; coordination of the operation of the two houses during the legislative session; review of legislative organization, rules, procedures, working conditions and physical facilities; supervision, coordination, and support of work done by joint interim committees; supervision of the Division of Legislative Services; and the development of policies to govern the conduct of members, officers, and employees of the legislature;

(g) The Committee report annually on its activities to the General Assembly;

(50) The Speaker of the House and President of the Senate each be authorized to employ, with the consent of the Joint Committee

on Legislative Policy and Management, an administrative assistant, each of whom will serve primarily as staff to the Joint Legislative Committee;

(51) The Minority Leaders of the House and Senate each be authorized to appoint an administrative assistant to serve minority party leaders and members;

(52) House and Senate Rules be revised to provide that present rules committees be redesignated the committees on Rules, Procedure, and Organization and that each consist of eight members, all of whom are concurrently members of the Joint Committee on Legislative Policy and Management.

To ensure the availability of necessary professional assistance and useful information to committees and members of the legislature (Chapter V), we recommend that:

(53) All legislative service agencies and staff be responsible exclusively to the General Assembly, and not to the governor, department heads, or other boards;

(54) For the most effective assistance in policy research, fiscal analysis, budgetary review, oversight of executive performance, bill drafting, and legal counsel, a Division or Department of Legislative Services be established, and include the following agencies:

Bureau of Legislative Reference

Bureau of Policy Research

Bureau of Fiscal Research

Bureau of Post Audit

(55) Each bureau be headed by a director, who shall be responsible to the General Assembly through the Joint Committee on Legislative Policy and Management and who shall report to the Joint Legislative Committee at least four times each year;

(56) There be established an Advisory Panel on Legislative Management and Services, to be composed of seven members appointed quadrennially--two to be appointed by the President of the Senate, two by the Speaker of the House, and three by the Governor, but not to include members of the legislative or executive branch;

(57) Whenever the directorship of a bureau of the Division of Legislative Services must be filled, the Advisory Panel will recommend a list of qualified candidates and the Joint Committee on Legislative Policy and Management will appoint one person from such list to the vacant position;

(58) Bureau directors have discretionary authority with regard to the selection, assignment, and retention of members of their own staffs;

(59) A Bureau of Policy Research, staffed by a director and four professionals, perform the following duties:

(a) Provide specialized research assistance to the House Judiciary Committee, the proposed House Committees on Economic Affairs, State Affairs, and Health, Education, and Welfare, the Senate Judicial Proceedings Committee and the Senate Economic Affairs Committee;

(b) Provide specialized research assistance to the proposed Joint Interim Committee on Judiciary and the Joint Interim Committee on Economic and Social Affairs;

(c) Respond to research requests made by individual legislators;

(d) Prepare abstracts and explanations of executive agency reports and other state publications as well as occasional informational or research bulletins;

(60) A Bureau of Legislative Reference, consisting of a director, about seven full-time attorneys, and a few clerical assistants, perform the following duties:

(a) Draft bills in accord with the precepts that equal service be given all legislators, work is kept confidential, and all drafts faithfully carry out the ideas of the requestors;

(b) Approve the form of all bills introduced into the General Assembly;

(c) Maintain a record of drafting requests and instructions given by the requestor;

(d) Prepare a brief analysis to accompany all bills and important resolutions drafted;

(e) Assist all committees in drafting amendments to legislation under their scrutiny;

(f) Provide legal counsel and advisory opinions on parliamentary points and the constitutionality or other legal implications of legislation;

(g) Begin a preliminary program of statutory and code revision, particularly to suggest formal improvements and point out areas in greatest need of corrective revision;

(h) Provide legal assistance to committees, especially to the standing judiciary committees and the proposed Joint Interim Committee on Judiciary;

(i) Prepare and distribute, after the third week of the legislative session, a biweekly progress reporter containing a cross-referenced record of introduced bills and legislative action;

(j) Prepare a monthly newsletter for distribution during

the interim period, containing brief reports of interim committee action;

(61) The legislature's orientation program for new members be substantially improved by:

(a) Holding two- or three-day sessions after each general election and before the General Assembly convenes;

(b) Including as participants legislative leaders, committee chairmen, legislative staff, and heads of major departments and agencies;

(c) Requesting the American Political Science Association to provide its services in developing the next orientation program;

(62) The Joint Committee on Legislative Policy and Management, or a similar leadership group, direct staff or employ special consultants to prepare basic informational manuals for all members of the General Assembly;

(63) The Joint Committee on Legislative Policy and Management weigh seriously on a case-by-case basis the authorization of funds to employ consultants when requested by standing and interim committees with particular projects or studies to accomplish;

(64) The Joint Committee on Legislative Policy and Management consider jointly with the University of Maryland the initiation

of a series of seminars focused on substantive problems of concern to members of the General Assembly;

(65) The Joint Committee on Legislative Policy and Management study most diligently computerized information processing, with a view toward adapting statutory search and retrieval processes to the needs of the legislature;

(66) In collaboration with local universities and, perhaps, the executive branch, the Joint Committee on Legislative Policy and Management formulate an internship program under which about four graduate students may spend about ten months each year working for standing and interim committees of the General Assembly.

To increase the effectiveness of legislative review of the budget and appropriations (Chapter VI), we recommend that:

(67) The new Constitution retain provisions permitting the General Assembly to increase budget items relating to the legislative or judicial branches and to reduce items relating to the executive branch;

(68) The budget bill shall become law when passed by both houses of the General Assembly and shall not be subject to veto by the governor;

(69) The legislature play no formal role in the preparation of the budget, but legislative staff continue to attend executive budget hearings for purposes of acquiring information which will be useful in staff support of the finance committees;

(70) The House Ways and Means and Senate Finance Committees continue to devote their major attention during the first half of the annual session to budget bills, turning to other appropriation measures later when members have become well acquainted with executive requests for various programs and agencies;

(71) House Ways and Means and Senate Finance continue to hold hearings separately before full committees;

(72) Joint subcommittees, which evaluate and make recommendations for budgetary changes, be reorganized as follows:

(a) A capital budget subcommittee continue to have responsibility for capital improvements;

(b) Three additional subcommittees be constituted so that each one has responsibility for certain broad areas of state programming, such as economic affairs, state affairs, and health, education, and welfare;

(c) Subcommittees provide more detailed explanations in support of their recommendations for budget decreases to their parent committees;

(73) Committee and subcommittee chairmen advise members to direct their critical attention to program evaluation and program expenditure rather than to technical details and the costs of specific line items;

(74) A Joint Interim Committee on Finance be established and:

(a) That it be composed of 21 members from House Ways and Means and 11 members from Senate Finance;

(b) That it be divided into three standing subcommittees, one on Taxation and Fiscal Matters, another on the Capital Budget, and the third on the Current Expense Budget;

(c) Each subcommittee be staffed by at least one professional from the Bureau of Fiscal Research;

(d) These subcommittees conduct studies, evaluate executive performance, draft reports, and prepare whatever legislation necessary;

(75) If it is imperative that adoption of a system of joint interim committees be postponed for a year or two, in the meantime the legislature proceed to establish a joint budget committee to operate during the interim period.

To provide requisite fiscal and budgetary staff and information

to committees and members of the legislature (Chapter VII), we recommend that:

(76) Staff of the Bureau of Fiscal Research be expanded and organized so that:

(a) One member focus attention on the capital budget, serving the Subcommittee on the Capital Budget throughout the entire year;

(b) Three members concentrate on broad areas of the operating budget, paralleling the substantive jurisdictions of the proposed House committees on Economic Affairs, State Affairs, and Health, Education, and Welfare and working with functional subcommittees of Ways and Means and Finance as well as the proposed Current Expense Budget Subcommittee of the Joint Interim Committee on Finance;

(c) All of the four above-mentioned professionals also provide specialized information to substantive legislation committees and individual members of the House and Senate;

(d) Two members concentrate on tax and related problems, serving the two standing committees on finance during the session and the Subcommittee on Taxation and Fiscal Matters during the interim and responding to individual requests as the need arises;

(e) Two members have primary responsibility for fiscal notes and also support whatever special committees need fiscal assistance during the interim period;

(77) The Bureau of Fiscal Research perform the following functions:

(a) Continue to collect, tabulate, and publish basic data on local government finance in Maryland;

(b) Assist interim committees, particularly Joint Finance, in reviewing the performance of executive departments and agencies, evaluating certain programs, assessing special funds, and considering the impact of federal aid;

(c) During the session, assist in budgetary review by attending executive hearings, briefing committee members before legislative hearings begin, helping to schedule hearings, bring to the attention of members major policy questions and alternative courses of action, program levels, or priorities, and issue a relatively brief document analyzing salient parts of the governor's budget;

(78) A fiscal note procedure be adopted which provides that:

(a) The Bureau of Fiscal Research receive from Legislative Reference a copy of every bill drafted by that agency;

(b) The bureau decide whether a bill substantially increases

or decreases state revenue, appropriations, or fiscal liability, and if so prepare a fiscal note after consultation with the appropriate state department or agency;

(c) A mimeographed note estimating fiscal impact be sent to the bill's sponsor and to each member of the committee to which the bill has been referred;

(d) Where committee amendments have substantial fiscal effects, the bureau quickly revise fiscal-impact information;

(e) When a bill is reported to the floor, fiscal-impact information not only be orally communicated by a committee chairman but it be included in a brief committee report or some other memorandum distributed to all members of the house;

(f) Members proposing amendments from the floor also be required to report their fiscal effects;

(79) The post-audit function be transferred by statute from the executive to the legislative branch;

(80) A Bureau of Post Audit, headed by the state auditor and including the present staff of his office, be one of several separate agencies in the Division of Legislative Services, accountable to the Joint Committee on Legislative Policy and Management and working with the finance committees and the Bureau of Fiscal Research;

(81) In addition to examining the legality and procedural propriety of financial transactions by state agencies, the Bureau of Post Audit collect information which will aid the General Assembly in determining whether expenditures of appropriations are efficiently and effectively accomplishing the legislature's policy objectives;

(82) The budget document contain more complete and, if possible, precise information on program purpose, administrative ends and means, past accomplishments, and future objectives, and particular attention be devoted to the development of meaningful criteria of program performance;

(83) The budget document include the following types of information:

(a) An introductory explanation, mainly to facilitate understanding of the organization and terms of the budget;

(b) Expenditure information for a period of at least three prior years;

(c) Estimates of expenditures beyond the forthcoming fiscal period;

(d) Requests made by state agencies, as well as the governor's budgetary recommendation;

(e) A distinction among program amounts sought for

(1) continuing the present level of services, (2) changing the operating level of services, and (3) providing new and different services;

(84) A document to accompany the budget explain major policy considerations and decisions implicit in the governor's budgetary recommendations.

To help fulfill the obligations of the legislature to the public and those of the public to the legislature (Chapter VIII), we recommend that:

(85) A Legislative Office of Public Information be created to facilitate the flow of communications from the General Assembly to the press and public, denying legislative access to none but serving to bring together those people who have information and those who might benefit from it;

(86) The General Assembly continue to devote intensive efforts to the formulation of effective means to control legislative conflicts of interest and the Joint Committee on Legislative Policy and Management turn its attention to developing and then enforcing a legislative code of ethics;

(87) The legislature employ sufficient secretarial personnel to support the work of standing and interim committees, to assist legislative service agencies, and to aid members during the course

of legislative sessions;

(88) The Joint Committee on Legislative Policy and Management carefully oversee the expense allowances of legislators and continuously assess the need for augmenting them periodically as legislative work increases;

(89) The General Assembly, primarily through the Joint Committee on Legislative Policy and Management, exercise constant review of requirements for facilities and office equipment and take whatever action appropriate to meet its physical needs;

(90) The new Maryland Constitution provide that the members of the General Assembly shall receive such salary and allowances as may be prescribed by law;

(91) As soon as constitutionally feasible, the legislature should enact a compensation bill providing:

(a) A basic salary of \$8,500 for members of the General Assembly;

(b) Salaries of \$10,500 for the Speaker of the House and the President of the Senate and \$9,500 for the majority and minority leaders and chairmen of all major committees;

(c) The elimination of per diem during the legislative session, but continuation of \$35 per diem payments for committee

work during the interim;

(92) The people of Maryland recognize that legislative improvement is necessary, appreciate the additional expenditures required, and evidence a willingness to bear the costs of strengthening the General Assembly.

The recommendations of this study and report are intended to help the General Assembly focus attention on the important substantive tasks before it and to make available tools necessary for more effective performance in policy-making, legislative review, and representation. If they are adopted and put into practice, however, the need for further improvement will continue to persist. As times, circumstances, issues, and people change, the General Assembly will have to reassess its operations and continually adapt them to new demands.

Members of the Maryland legislature seem disposed to make an auspicious beginning now. Whether they have both the will and skill to follow through is the major question. The decision to adopt suggestions for improvement rests primarily with legislators of the state. The ways in which they are put into practice are largely their choice. Others will help, but they must take the lead and do the bulk of the work. Every citizen in the state of Maryland should be concerned about the

strength of the General Assembly, but the job of strengthening the legislature is mainly up to legislators themselves. It is their responsibility to respond to one of the critical challenges of state government today. No one can be expected to answer for them.

